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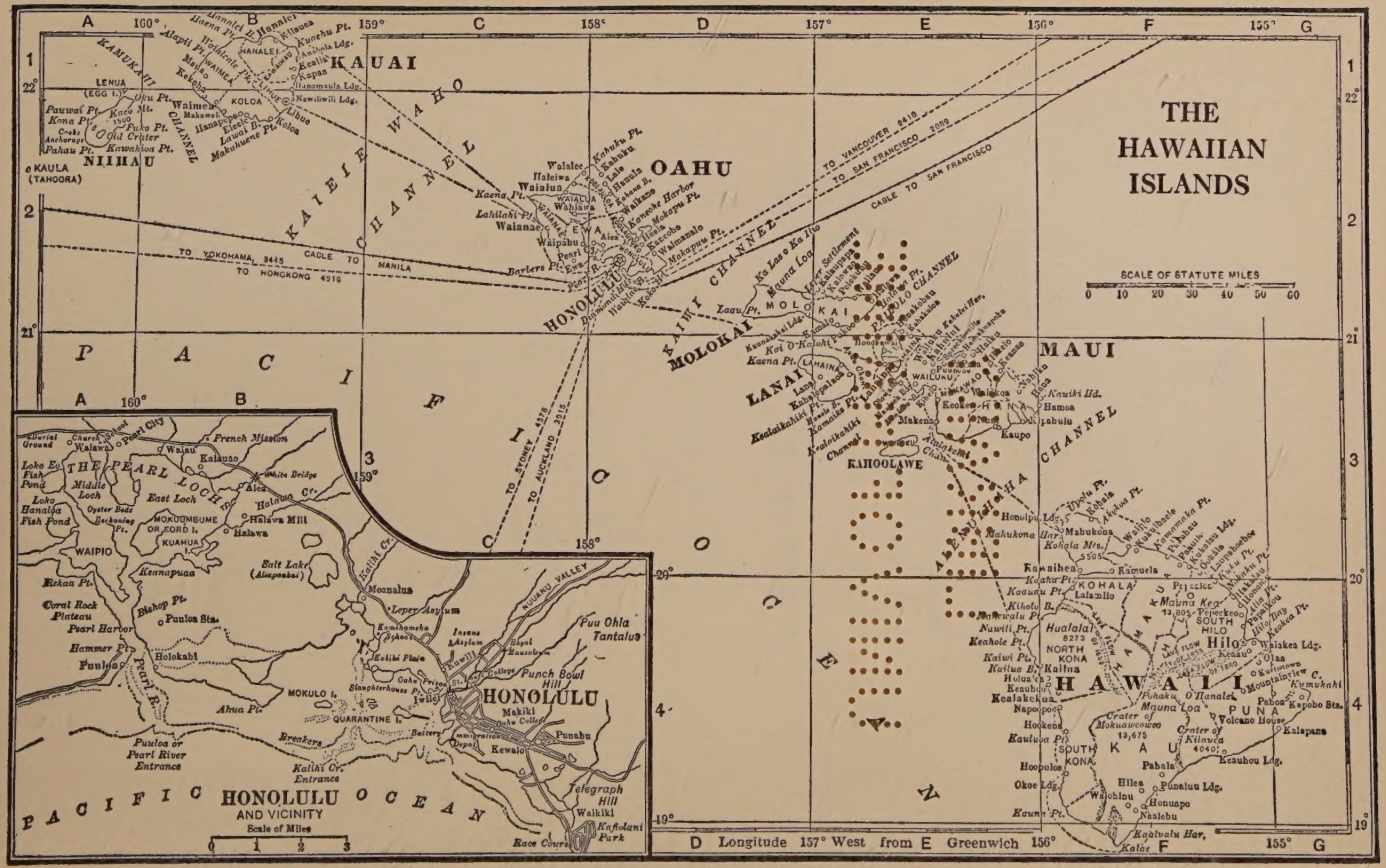
THE HAWAIIAN ISLANDS
SCALE OF STATUTE MILES
0 10 20 30 40 50 60
KAUAI
NIIHAU
KAUA (TAHOORA)
OAHU
HONOLULU
MOLOKAI
LANAI
MAUI
KAHOOLAWE
HAWAII
KAIEIE WAHO CHANNEL
KAIWI CHANNEL
MOLOKAI CHANNEL
ALENUIHAHA CHANNEL
PACIFIC OCEAN
TO VANCOUVER 2410
TO SAN FRANCISCO 2089
CABLE TO SAN FRANCISCO
TO YOKOHAMA 3445
CABLE TO MANILA
TO HONGKONG 4916
TO SYDNEY 4378
TO AUCKLAND 3215
THE PEARL LOCH
HONOLULU AND VICINITY
Scale of Miles
0 1 2 3
Longitude 157° West from Greenwich 156°

THE GOVERNANCE OF HAWAII

A STUDY IN TERRITORIAL ADMINISTRATION

BY

ROBERT M. C. LITTLER

1929

STANFORD UNIVERSITY PRESS
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In MEMORY OF MY TEACHER

VICTOR J. WEST

AND OF THE INSPIRING HOURS
SPENT AROUND HIS FIREPLACE

114289

PREFACE

There are books written out of other books and books out of which other books are written. That this one is not written out of other books is due primarily to the fact that there were no books out of which it could have been written. When I began to instruct in political science at the University of Hawaii, I set out to discover something of the government under which I then found myself. Aside from W. F. Willoughby's *Territories and Dependencies of the United States,* published more than twenty years before, I could locate in the standard texts on American government only a few brief descriptive paragraphs about Hawaii, and these paragraphs had been so obviously copied one from another that there had resulted an intellectual inbreeding which perpetuated some rather patent errors. My task was to start out anew, on my own account, to learn about the governance of Hawaii.

On the face of it there seemed no simple explanation of the general dearth of interest in the territorial administration of Hawaii. The Islands are almost continually in the public eye. Most people have heard much of the sparkling waters of Waikiki, the quiet calm of green Manoa Valley, the seething fires of Kilauea. We all learned a great deal about the geography of the archipelago when Honolulu became the goal of adventurous trans-oceanic aviators. Furthermore, since the war there has been a considerable revival of interest in the study of colonial government. The names of India, the Philippine Islands, Tunis, Morocco, Egypt, Syria, and Porto Rico, all remind us that one of the major problems of the white race concerns its relation to the yellow, the brown, and the black co-citizens of this world.

Probably the explanation of the fact that Hawaii's government has escaped the attention of scholars is that it has worked well. We are not conscious of a thumb until it becomes sore. The pieces of government machinery which are most often in the headlines are those which are most troublesome. The territorial government of Hawaii has been successful. It has caused little, if any, trouble. Therefore men have paid it scant attention.

But from that very fact arises a reason for observing it. Perhaps from its structure and administration may come inspiration for revisions of policy elsewhere. Hawaii's situation is not unlike that of a colony. But it is not a colony. The chief difficulty in colonial administration is the reconciliation of the interest of the dominant country with the antagonism of the native races. That problem is not to be found in the islands of Hawaii. Hawaii is virulently American. Just as a nation, newly independent, will go to any length to uphold its independent dignity, Hawaii, only recently American, often goes out of its way to display its Americanism. Americanization classes, lectures on American ideals, patriotic ceremonies, and above all the requirement of military training for every high school student and the first- and second-year students at the University of Hawaii, all demonstrate continually to her inhabitants that Hawaii is a fundamental part of the United States. Many would declare that compulsory military training is a most perverted method of instilling Americanism. Be that as it may, such is its chief purpose in Hawaii. This being the attitude of mind in the Islands, the situation of Hawaii cannot be compared to that of India, Egypt, or Porto Rico. Thus in the subtitle of this book, this study is designated as one in territorial administration, rather than in colonial government.

Almost necessarily a descriptive study like this is a personal appraisal. The ideal monograph on such a subject would probably be one presenting the bare facts, the absolute truth, permitting each reader to draw his own conclusions. That would be scientific. Professional students of politics have said and heard much these many months about the scientific method in the study of government. It would seem natural that, if properly applied, that method of study which taught us that the stars are not pinholes in the celestial floor, that it is not through these pinholes that the rain drops upon us, that fossil shells are not evidence of the flood nor did they drop from the hats of crusaders, that horse hairs do not turn to snakes, nor is the future fixed by the disposition of a sheep's entrails, would lead us to a better understanding of government. It is a platitude that the social sciences, assuming that they are sciences, have lagged far behind the exact sciences. Men's knowledge of chemistry, of physics, and of biology has added enormously to human comfort in recent years. Whether it has added to human happiness, *quaere*. For who shall say that, man to man, we are any more truly happy today with our serums, radios, and airplanes than men were in King Alfred's day with their superstitions, dice, and hunting? But we cannot argue that here. The fact remains that our skill in government has progressed but slightly beyond that of Rome. So, we have heard said, let us take a hint from Galileo and approach the study of government from the scientific point of view.

That is a splendid idea. But the chief defect with the scientific method in government is that we totally lack precise criteria with which to formulate judgments. Show an engineer a bridge and, applying the knowledge he acquired in a college course in stresses and strains, he

can tell you with great accuracy just how heavy a load it will carry, just how efficient it is. But suppose it is desirable to evaluate the efficiency of the legislature of the Territory of Hawaii. Of course, if it is conspicuously good or notoriously bad, it is easy to say so. But between the extremes there is no test we can apply. Whether the legislature passes one bill or a thousand in a session, whether it increases or reduces appropriations, whether it meets for an average of one hour a day or six, are all matters of utter irrelevance. The point is you cannot make a qualitative analysis of a legislature as you can a piece of cement. Such being the case, any statement about the legislature is only the opinion of its author.

Now how far is the author justified in displaying his opinions? Should he not make every effort to suppress them, to present only bare facts, as nearly as he can? I think not. By his very selection of facts he evinces his opinion. By failing to state that the legislature is wonderful or wretched he implies that it is neither. If he did not make careful selection, deleting relative non-essentials, his product would be a conglomerate mass of heterogeneous incomprehensibles.

And so I repeat that this study is a personal appraisal. It has been made in this manner: I first made a careful survey of the Revised Laws of Hawaii, together with amendments and decided cases. Statutes and decisions I classified according to department and function. Then I began to interview officials and to visit offices. More than three hundred men and women in government service gave me assistance. I think that with less than a dozen exceptions I personally called on every department in the federal, territorial, city-and-county, and county administrations. The impressions I received were checked with

those of several individuals who were familiar with politics in Hawaii from the inside and from the outside. Three series of articles I wrote for the *Honolulu Star-Bulletin* on the Honolulu government, the territorial government, and the relation of the various races to the government, and one series I wrote for the *Hilo Tribune-Herald* on the county administration of Hawaii. I have had the benefit of repercussions from these articles, and it is with the permission of the two papers that the material first published in their columns is reproduced here.

The field of Hawaiian government is a narrow one. It would be useless to write one book on it for the advanced student of colonial government, another for the public school pupil, and still another for the general reader. I have tried to please all three of these mythical individuals in this one volume. Chapter i is prepared primarily for my friends on the mainland who are not familiar with the Hawaiian Islands themselves. Perhaps it may remind readers in Hawaii of facts they have forgotten.

Inspiration for the title of this book obviously came from Sidney Low's *The Governance of England.* The word "government" might have sufficed, but it connoted only the machinery of government. I sought something to indicate that this is the study of the whole process of government in Hawaii. The word "governance" is not new. It had always been my impression that Sidney Low did a very clever thing in coining it; but it was used in the same sense by Longfellow, Browning, and J. R. Green, as well as by Richard Hooker in his *Laws of Ecclesiastical Polity,* published in 1592.

As I reflect on all the kind people who have helped me in my task I begin to wonder whether this is *my* book

at all. Dr. K. C. Leebrick, my chief at the University of Hawaii, who is a fine combination of scholar and humanist, was the one from whose suggestion this study developed. His advice saved me hours of time and his criticism prevented me from falling into more errors than I like to contemplate. Mr. Henry P. Seidemann of the Institute of Government Research, Washington, D.C., who did yeoman work in straightening out the territory's finances, opened his files to me and allowed me to consult with him freely. On the relations of the races Dr. Romanzo Adams of the University of Hawaii offered many suggestions. Also Dr. K. D. Lum allowed me to see his doctoral thesis, *The Evolution of Government in Hawaii.* The chapter on "Hawaii and the Nation" was read at one time and another during the stages of its preparation by Mr. Walter F. Frear, of Honolulu, and Professors Edward S. Corwin of Princeton, Charles K. Burdick of Cornell, and A. M. Cathcart of Stanford. On many occasions my good friend, Mr. Kamuela Keao Poepoe, helped me to an understanding of the point of view of the native Hawaiians. On various problems I received advice from: Governor Wallace R. Farrington; his secretary, Mr. Walter R. Dunham; the Secretary of Hawaii, Raymond C. Brown; Mayor John H. Wilson of Honolulu, and his secretary, Mr. Ernest Heen; Mr. C. S. Carlsmith and Mr. Bert D. Chilson, of Hilo; Mr. Joseph D. Gray and Mr. William Fred Kaae, of Wailuku; Mr. Charles Rice and Mr. C. J. Fern, of Lihue; and Mr. Joseph D. Farrington, Mr. Riley H. Allen, and Mr. John F. Stone, of Honolulu. Many public officials will understand why I do not enumerate herein all of those who so kindly assisted me, a *malahini* (newcomer), to comprehend the various phases of their work. Mrs. Rena Lawrence Monroe aided in the prepara-

tion of this manuscript, and Graham H. Stuart, my former teacher, and still my teacher, twice read this book and suggested many improvements. To all these people I am debtor in gratitude and extend my sincere thanks.

Mr. J. G. Emerson has given so much friendly and intelligent counsel to me in the task of writing this book, and upon other occasions far too numerous to mention, that any expression of my appreciation could be nothing but a superficial suggestion of my real feeling. Lastly, and under the circumstances perhaps least important, my redundant thanks to G. E. C., alias B. C., and soon G. E. L., for patience, advice, censure, encouragement, stimulus, suggestions, and a sense of humor!

And now, rereading again what I have written, I find myself in the mood of a poem by Don Blanding:

> Some day in some cold city of the north
> I'll hear the tattered fragment of a song—
> "Aloha Oe." The dull, gray streets will fade.
> I'll see the lavish gold of summer's suns
> Drenching a land of joyous, fadeless green;
> I'll see the luminous Hawaiian moons
> Making white magic with the sea and sky;
> I'll sense the fragrance of white ginger;
> I'll see that single burning star
> That leaves a silver path across the sea
> At Waikiki. . . . .
> In some cold city of the north I'll hear that song
> And one—not more than one—pale moon will wane;
> Then I'll be back.

R. M. C. L.

Palo Alto, California
February 1, 1929

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CHAPTER I

THE ISLANDS OF HAWAII

Geography.—Of all the inhabited places on this earth of ours, the islands of Hawaii are geographically the most isolated. They are more than two thousand miles from their nearest neighbor, California. The Hawaiian group proper lies just within the tropical zone and consists chiefly of eight islands, which are, in the order of their size: Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, and Kahoolawe.[1] For purposes of American governmental administration a further string of islands extending a thousand miles to the northwest and a few islands eight hundred miles to the south of the main group are considered part of the Territory of Hawaii, though none of these is inhabited except Midway Island, which is important as a Pacific cable station. The dry land area of the entire archipelago is about equal to that of Delaware or New Jersey. The population[2] is set down as 348,767, which is five times that of Nevada, twice that of Wyoming, almost twice that of Delaware, about equal to that of Arizona or Vermont, and six times that of Alaska.

The territory gets its name from the southernmost island of the group, which is larger than all the others put together. Its area is slightly less than that of the state of Connecticut and distinctly greater than that of Porto Rico. Its population is about ninety thousand, and on its eastern shore is the second largest city in the territory,

[1] For guidance in the pronunciation of Hawaiian names see Appendix A, pp. 229 f.

[2] On June 30, 1928. From the *Annual Report of the President of the Board of Health,* for 1928, published by the Board of Health, Honolulu, T.H.

Hilo, with about twelve thousand people. Hawaii Island is particularly attractive to tourists because of its two active volcanoes, its two mountains, each more than thirteen thousand feet high, its lava desert, and its tropical vegetation, which is heavier and more luxuriant than that of the other islands.

To the northwest of Hawaii is the island of Maui, the second of the group in size. Although in no one place is to be found a community of more than fifteen hundred people, the total population of the island is about fifty thousand. On the eastern end of Maui is the huge old extinct volcano of Haleakala, rising ten thousand feet above the sea. Hawaii Island produces sugar and some coffee; Maui contains some of the most important sugar plantations in the territory, several pineapple plantations, and a few experimental rubber plantations. West of Maui is the island of Lanai, of lesser importance, owned almost entirely by the Hawaiian Pineapple Company.

Molokai, directly north of Lanai and northwest of Maui, is an island forty miles long and only ten miles wide. The west end of Molokai is relatively barren and is devoted to the raising and grazing of cattle and sheep. The east end is fertile and produces many pineapples. Along the north shore of the island a bluff drops directly into the sea from a height of a few hundred to two thousand feet. At one point along the base of this cliff a small triangular peninsula extends into the ocean. Here is located the territorial leper settlement which has given the whole island a melancholy celebrity. Molokai is little visited, and most of its few inhabitants are Hawaiian homesteaders.

Thirty miles north and west of Molokai is Oahu. The shore line of this island is extremely irregular, and thus

it has more harbors than any of the others. Oahu is chiefly important because on its southern shore is Honolulu, the capital and the largest city of the territory. It is here that the boats from the mainland stop. The harbor of Honolulu is not large, but, in the number of ships going in and out, it exceeds every other American harbor except New York. *Honolulu* means "quiet haven" and is appropriate, since there are few severe storms and none that affects the safety of the harbor. The visitor coming in first notices the Japanese and Hawaiian fishing-boats, their bright colors contrasting with the gray tenders of the men-of-war. Near the dock he sees Hawaiian and part-Hawaiian boys swimming about, clad in almost nothing, shouting, and ready to dive for nickels and dimes. On disembarking he finds good street cars, excellent water, electric lights, a telephone system with thirteen thousand connections, vociferous taxi men, flivvers, luxurious limousines, hundreds of miles of concrete roads, and spacious hotels. Honolulu has about one hundred and thirteen thousand people, and does decidedly more business than most American cities of the same size. It has nine large banks, and department stores thronged with buyers and displaying the latest New York and Paris creations. The daily papers publish press reports with national and international news and give New York Stock Exchange quotations and the big-league baseball scores. Honolulu is modern and American.

The most northerly of the Hawaiian group proper, about seventy miles from Oahu, is Kauai. Almost circular in shape. Kauai is the oldest of the islands, though not, to be sure, very ancient in point of geologic time. It has few harbors. It is almost entirely agricultural. Kauai has over thirty-seven thousand people all together, but

they are scattered in small settlements on sugar plantations.

Of the other islands in the Territory of Hawaii there is little to say, except that they exist. They are, by name, Kahoolawe, Niihau, Midway, Molokini, Laula, Nihoa, Necker, Laysan, Gardiner, Lisiansky, French Frigate Shoal, Palmyra, and the Ocean Islands.

The Hawaiian Islands are, of course, most famous for their climate and their beauty. They have most of the scenery but none of the discomforts of the steaming latitudes. One does not have to pay the price of odors and insects and heavy vapors to experience the clemency of the climate. The sun helmet, often brought by uninitiated travelers, is useless except on rare occasions. In Hawaii there is not, as in so many tropical countries, a three-hour hiatus in the middle of the day when men and women take their siesta. The northeast winds blow for nine months in the year, so that the temperature averages ten degrees lower than in any other region in the same latitude. And there is no fever in the clean trade winds.

Races present.—Of all the factors which go to make up life in Hawaii, the only one strikingly different from anything to be found on the mainland is the very great variety of races represented in the population. If you could walk along one of the downtown streets of Honolulu and gather together a crowd of typical Hawaiian residents, among those present would be Japanese, Chinese, Filipinos, Koreans, Porto Ricans, Portuguese, Spanish, Hawaiians, Russians, Germans, Norwegians, and Americans; also Portuguese-Hawaiians, Chinese-Hawaiians, and almost any other possible combination of the original groups. On June 30, 1928, the territorial board

of health estimated the number of people of each race to be as follows:[3]

Japanese	134,600
Filipino	60,078
American, British, German, and Russian	37,502
Portuguese	29,117
Chinese	25,310
Hawaiian	20,720
Caucasian-Hawaiian	15,948
Asiatic-Hawaiian	10,036
Porto Rican	6,781
Korean	6,318
Spanish	1,809
All others	549
Total	348,767

In the Islands it is clearly recognized that within this general mixture there are six important racial groups. First, there are those enumerated above as "American, British, German, and Russian." These are known as the *haoles.* The word "haole" was originally a Hawaiian word meaning "foreigner," but by custom it has become attached to this particular portion of the population, by far the most numerous of which are those who come from or whose parents came from the mainland states. The first haoles appeared in Hawaii as traders and missionaries in the very early nineteenth century. Many of the traders settled permanently in the little port of "Honoruru," and from time to time members of the missionary families became business men. It is this group, considerably augmented by recent immigration, which now furnishes most

[3] *Annual Report of the President of the Board of Health,* for 1928. This analysis also appears in the *Annual Report of the Governor of Hawaii,* 1928, published by the United States Printing Office for the Department of the Interior, p. 51.

of the leadership of the territory. The haoles own about eighty-five per cent of the assessable property. They have been the "dominant" or the "domineering" race, depending on whether one is or is not a member of it.

The Hawaiians are Polynesians. In appearance they are not unlike American Indians. There is nothing about them to suggest the negro. The best of them are physically admirable, tall, well formed, with high foreheads, good features, deep chests, and slender limbs. Mark Twain described them as avaricious traders. Nothing could be farther from the truth. They are too big-hearted to succeed in business. But politics seems to be their natural occupation. They decline to take life seriously, insist on having an easy and pleasant time on this earth, and feel sorry for those who do not do likewise. Their adaptation to civilization has been remarkable. But it is tragically true that the Hawaiian race is passing. The population of the Islands was probably about two hundred and fifty thousand when the white men first came. Hawaiians had never been moral according to Anglo-Saxon standards, the marriage-tie being of the loosest, polygamy frequent, and fidelity a virtue neither sought nor attained. Hence the diseases of civilization, once introduced, did their worst. Then came widespread immigration from the Orient, which brought its contribution of maladies. Finally, the race has diluted its blood by intermarriage. Since 1860 the number of Hawaiians has decreased more than sixty per cent.

Aside from the haoles and the Hawaiians, nearly all of the peoples of the territory have been imported into the Islands, at one time or another, as plantation laborers. Nearly two-thirds of the population can be accounted for in this manner. This importation began as early as 1852.

At that time the Hawaiian race was rapidly decreasing. The growing sugar industry was demanding more and more men. The reciprocity treaty in 1875, which secured the admission of Hawaiian sugar into the United States duty-free, greatly increased the demand for labor; and the situation became acute. The haoles, who were in control, were interested in bringing European laborers to the Islands. So they went to several Atlantic islands, notably Madeira and the Azores, and brought over seven thousand Portuguese between 1877 and 1887. These immigrants had a strong admixture of negro and Moorish blood. There was a second wave of Portuguese immigration during 1906 and 1907. From the first these men were of too high a class for plantation laborers. They were skilled artisans. They either drifted to the cities or became small agriculturalists. They have shown a strong tendency to intermarry with the Hawaiians. The Portuguese were at length made eligible to naturalization, and most of them have become American citizens. Since 1902 they have been a factor in politics, and in 1926 they controlled about one-seventh of the vote of the territory. Their economic holdings have not been important, compared with the haoles, but they stand well socially and certain members of the nationality have developed notable qualities of leadership.

Chinese were brought in as early as 1852, but the actual migration began in 1878, when nearly six thousand landed at Honolulu in one year. The Chinese were good plantation laborers, but they soon became very unpopular. They began to infiltrate into the small trades, and so successful were they that fear was expressed that Hawaii would become "orientalized." Furthermore, they were charged with having introduced leprosy. At any rate, the

Hawaiian government put severe restrictions on Chinese immigration in 1886, and annexation to the United States stopped it altogether. Chinese are just now beginning to be politically important. Because the race was ineligible to citizenship, it had to wait for a new generation, born in Hawaii, to grow up before it could entertain political ambitions. Two young Chinese have been in office on Kauai for several years, and two more were successful in Honolulu in 1926. In 1922 a Hawaiian-born Chinese boy, thirteen years old, won the American Legion Prize, among fifty thousand mainland competitors, for the best essay on the subject, "How Can the American Legion Best Serve the Nation?"

Japanese were first brought in as an antidote to the Chinese. The Tokyo government was extremely reluctant to allow its nationals to come as contract laborers, but finally made arrangements for this, and by 1896 more than twenty-four thousand were in Hawaii. They came from the rural counties of Hiroshima and Yamaguchi, from the southwestern prefectures of the island of Hondo, from Kumamoto prefecture in Kiushiu, and from Okinawa—the most backward sections of the Japanese Empire. Porteus and Babcock, two psychologists who have made a detailed study of the characteristics of the race in Hawaii, say that they are more self-assertive and nationalistic than the Chinese who came to Hawaii.[4] And while the Chinese have frequently intermarried with the Hawaiians, the Japanese have not. Being ineligible to citizenship, the Japanese have not been important politically, and their economic importance is not great. Until recently the Hawaiian-born Japanese were laboring under

[4] S. D. Porteus and M. E. Babcock, *Temperament and Race* (Richard G. Badger, Publisher, Boston, 1926), p. 48.

the handicap of dual citizenship. Because of differences in the laws of nationality, a Japanese born in America was both a Japanese citizen and an American citizen. An act passed by the Imperial Diet in July 1924 met this difficulty by providing that (*a*) a Japanese born in the United States after December 1, 1924, loses his Japanese citizenship if his parents do not, before he is fourteen days old, report his birth to a Japanese consulate and request that the child be registered as a Japanese citizen; (*b*) a Japanese born in the United States prior to December 1, 1924, may report to the Minister of the Interior of the Mikado's government and surrender his Japanese nationality, becoming an American citizen; and (*c*) one who by either of the above methods has become expatriated from Japan may, with the permission of the Minister of the Interior, recover his Japanese citizenship if he returns to Japan to live. A great many of the younger Japanese have taken advantage of this law and have severed their relations with the Empire.

The second largest racial group in Hawaii is the Filipino one. After the Gentlemen's Agreement with Japan in 1907, the planters, having to find new fields from which to recruit their labor supply, looked to the Philippine Islands. The result was another wave of immigration. There are three divisions of the Filipino people represented in Hawaii: the Visayan; the Tagalog; and the Ilocano. The Filipinos are commonly known to be very sensitive racially, and Porteus and Babcock attribute to them the characteristics of impulsiveness, suspicion, and a desire to attract attention.[5] They have been in Hawaii too

[5] *Ibid.*, p. 63. Their investigation was made, however, shortly after a widespread Filipino strike on the plantations; time will doubtless temper the judgment and make it more favorable.

short a time to have earned any place in the community. Out of fifty thousand, only twenty-one Filipinos owned any assessable real property in 1926, and the race paid less than one-tenth of one per cent of the total income tax of the territory. About four per cent of the bank deposits belong to Filipinos. It is the custom in the Islands to attribute to this race the recent increase in crimes. Statistics show that the Filipinos have been unjustly accused in this respect, although they do lead in murders and sex offenses and stand high in burglary. The race cuts no figure in politics. They are not citizens, and it will take twenty-five years for an enfranchised generation of them to grow up.

We have examined the different nationalities of Hawaii in considerable detail because the number and the intermixture of races constitute the chief point of difference between Hawaii and continental United States. This condition brings with it a chain of problems with which the government has to deal.

Hawaiian industries.—Another factor to be kept in mind is the economic organization of Hawaii. The business life of the Islands revolves around sugar and pineapples. Coffee, hides, and rice are produced, but only in minor quantities. In 1927, sugar shipments amounted to almost two-thirds of the total exports from Honolulu, and pineapple shipments to one-third.

The fur trade first made Hawaii important in the commercial world; furs, of course, were not obtained in the Islands, the northwest traders merely going there to rest and to obtain supplies. Sandalwood was the first truly Hawaiian product to become profitable as an article of export. The king retained in his own hands an absolute monopoly of the sandalwood trade, but the reckless

manner in which the trees were cut completely destroyed the forests, and the business came to an end after the first quarter of the last century. Even now, a hundred years after that trade was at its height, only a few small groves of sandalwood are to be found. Before the sandalwood trade was entirely ended, whaling ships began to visit Honolulu for the purpose of resting from their voyages and buying supplies. The first whaling ships came in 1820, and the industry lasted until petroleum was developed after the American Civil War.

From 1835 to 1845 many experiments were made with silk production. They appeared successful at first, but after a series of misfortunes were given up. Cotton-raising was another experiment. It enjoyed government aid for a time, but the only profitable period for the industry was during our Civil War. Coffee was first planted on a large scale in 1828 or 1829 on the Kona side of Hawaii, where, at an altitude of from one thousand to three thousand feet, its production is now fairly successful. The first serious attempt to produce rice was made in 1858. Sixteen years later the rice export exceeded 1,600,000 pounds, and much more rice was consumed in the Islands. But competition with Japan, Louisiana, and Texas made the crop a poor investment, and now rice culture is carried on mostly by Japanese and Chinese in the lowlands around Oahu and Kauai for home consumption.

In recent years, several industries have developed which cater solely to the local market and whose importance is not reflected in the figures on exports. On the four main islands there are more than eighty cattle ranches, large and small, with over one hundred thousand head of cattle on them. The annual income from the

dairy industry is nearly three million dollars. That of the poultry industry is about one million dollars.

The "tourist trade" is another source of wealth to the territory. Some eighteen thousand persons a year travel to Honolulu to loaf, bathe, and spend money. Obviously it is hard to capitalize this industry and to estimate its importance.

The story of the pineapple industry in Hawaii is one of the most fascinating horticultural romances of all time. Once the pineapple was torn from the soil and cast upon a rubbish heap as worthless; today its cultivation and canning constitute the second industry in the territory. Pineapples were grown during the nineteenth century, and after 1890 the fresh fruit was exported in some quantity but not very profitably. The real story begins with the struggle of James D. Dole in 1901 to finance a canning company. After some discouraging failures he succeeded in establishing the Hawaiian Pineapple Company, which has since grown to such gigantic proportions that in 1922 it bought the entire island of Lanai for pineapple growing. In 1926, $35,000,000 worth of this canned fruit was shipped from Honolulu.

But the real foundation of Hawaiian prosperity is sugar. Some Chinese on Lanai are said to have attempted the cultivation of sugar cane as early as 1802, but the first serious effort was in Manoa Valley on Oahu about twenty years later. For a time the system of land-holding deterred permanent investment, but in 1835 an American company succeeded in getting a land title which satisfied them and started a plantation on the island of Hawaii. In 1850 there was organized the Royal Hawaiian Agricultural Society, which began the policy of voluntary co-operation among the planters, a policy which has furnished

a great impetus to the development of the sugar industry. The producers were for a time handicapped by the American tariff. In 1866 and 1867 an attempt was made to conclude a reciprocity treaty for free access of American goods into Hawaii and of Hawaiian goods into the United States; but though President Johnson favored the proposal the Senate rejected it with little ceremony. In 1875, however, such a treaty was concluded, and put an end to all doubts about the future of the industry. Fifteen years later the sugar export was tenfold what it had been in 1875. In 1927 more than 750,000 tons were shipped from the Islands.

The scheme of organization of the sugar industry is a matter of prime importance to the society and the politics of Hawaii. Originally each plantation was owned by an independent farmer who, in order better to market his product, dealt through a factor in Honolulu. One agent might sell the sugar from five or from fifty plantations. Because these representatives were at the same time general merchants, the planters found it economical to order supplies through them. This agency work developed into a regular business until finally five firms succeeded in getting into their hands the marketing of ninety per cent of the sugar product of the Islands. The next step was for the factors to extend direct control over the plantations. At the present time, either by ownership, by part ownership, or by contracts with the plantations which give them the benefits of ownership without the risks, the five big factor interests dominate the entire system of sugar production. In business circles, a plantation is thought of only in its relation to the factor controlling it.

The power and authority which have gravitated to these five interests are out of all proportion to their ap-

parent position as mere agents of the plantations. Each factor is allied to a Honolulu bank, with which it co-operates almost to the point of control. Agencies for the steamship lines were for a time in the hands of the factors, but some lines now have their own representatives.

The sugar producers co-operatively own a refinery in California which takes the raw sugar and prepares it for table use. The planters have organized to aid each other in more general ways through the Hawaiian Sugar Planters' Association. By means of this body an extremely valuable experiment station has been maintained and a joint policy of importing contract laborers has been carried out.

To think of Hawaii in an economic sense is to think of sugar. That industry is ruled by a financial oligarchy around which is built the business and social structure of the Islands. Hawaii is thus a territory with a very strong and powerful propertied class, and a very numerous and heterogeneous non-propertied class. There are very few middle class people in between.

It is this social organization, together with the great intermixture of races, which forms the basis on which the government of the territory operates.

BIBLIOGRAPHY

Much of the information contained in this chapter was gathered at first hand. Many excellent books have been written describing the Islands; too many to enumerate here. Probably the best is W. R. Castle, Jr., *Hawaii, Past and Present* (Dodd, Mead & Company, 1926). Concerning the races of the Islands see S. D. Porteus and M. E. Babcock, *Temperament and Race* (Richard G. Badger, Publisher, Boston, 1926); and also, Romanzo Adams, *The Peoples of Hawaii* (pamphlet, published by the Institute of Pacific Relations, Honolulu, 1925). The Japa-

nese consulate in Honolulu has published a short pamphlet describing the Japanese expatriation law, which can be secured on request. The historical material on Hawaiian economics can be found in Ralph S. Kuykendall, *A History of Hawaii* (The Macmillan Company, 1926); and in Josephine Sullivan and K. C. Leebrick, *A History of C. Brewer and Company* (C. Brewer & Company, Honolulu, 1926). A good discussion of present-day Hawaiian agriculture is in the *Encyclopedia Britannica,* Vol. XIII. For current information on the topics covered by this chapter see the *Annual Reports of the Governor of Hawaii* to the Secretary of the Interior (United States Government Printing Office, Washington, D.C.).

CHAPTER II

AN INDEPENDENT NATION

First days of a kingdom.—Hundreds of years before the white man had ever ventured beyond sight of land, the Polynesian peoples of the south Pacific were making voyages far out to sea in their outrigger canoes. On one of these journeys, about 500 A.D., a powerful war chief, Paao, together with a few followers, landed at the group of islands which we now know as the Hawaiian archipelago. Recorded history of Hawaii begins very early in the morning of January 18, 1778, when the British Captain James Cook approached the island of Kauai in the course of his third voyage into the Pacific. He found the Islands in a period of transition. From their earliest settlement the different islands had been ruled by different kings, and sometimes there was more than one king on the same island. For at least three hundred years there had been constant battle among the rulers. One chief after another, arrogant and rapacious, had led his army from district to district, from island to island. In November 1736, during one of these brutal civil wars, a baby boy was born of royal parentage on the Kohala coast of the island of Hawaii. He was named Kamehameha. He became a great warrior, and one sphere after another came under his control. Cook notes him as the dominant power of the Islands. By 1796 he had completed his conquest. He is known as Kamehameha I, Napoleon of the Pacific, founder of a dynasty, and national hero of the Hawaiians.

Honolulu, on Oahu, he chose for his capital. There he surrounded himself with an informal council of four

men. For purposes of administration he divided his realm into four parts corresponding to the most important islands. Over each he placed a governor who had power almost to the extent of his own. Upon important occasions he summoned a general council of governors and chiefs from all the islands to discuss matters of state. Kamehameha must have been a wise and sagacious king as well as a great warrior. All of the travelers who visited Hawaii during his reign speak highly of him. He early brought white men into his service as advisers and some of them attained high places in his dominion. Although the administration of this island king might not stand comparison with the governments of the more modern states of the day, Kamehameha was kind to his people, he maintained order, and he conducted himself with dignity and reserve.

Unfortunately Kamehameha's son, Liholiho, was not of the same quality. Therefore, in order to protect the throne, the king established the office of *kuhina nui*. This new officer was given enough power to balance that of the king's; neither could act without the other. Before he died the conqueror selected his favorite queen, Kaahumanu, a woman of very strong will, to be the first *kuhina nui*. Liholiho, who was crowned as Kamehameha II, soon after his ascension to the throne began to display the weaknesses that his father had anticipated. It was largely his instability that gave the council of four chiefs the opportunity to increase its power.

During the reign of Kamehameha II several legal reforms were instituted. Before the advent of printing-presses in the Islands, laws were declared through word of mouth by heralds officially appointed. In 1824 a series of new laws was promulgated in this way. They forbade

murder, theft, boxing, and desecration of the Sabbath, and provided that "when schools are established, all the people shall learn the *palapala* [alphabet]." The influence of the newly arrived missionaries is obvious.

By 1836 a new king, Kamehameha III, had succeeded to power. In that year he sent a request to the United States government for a legal adviser and instructor. Receiving no reply, the king asked Reverend William Richards, a missionary, to deliver a course of lectures on political science. Richards did so. It seems that his chief qualifications for the task were willingness, a knowledge of the Bible, and a copy of the Declaration of Independence. Finally, with the aid of some native graduates of a local school, whose training in constitutional law was less than his own, Richards drew up a bill of rights and an organic law. These were promulgated in 1840. This was one of the very few times in all of human history that a ruler has voluntarily given up any of his regal prerogatives.

Under the new constitution the executive branch of the government consisted of: (1) the king, who commanded the military forces, received ambassadors, made treaties, permitted transfers of land, and was chief justice of the supreme court; (2) the *kuhina nui,* who acted as premier, supervised government property, and on occasion vetoed acts of the king; and (3) the island governors, who appointed tax collectors and judges and watched over local matters in general. The governors themselves were chosen by the king with the approval of the *kuhina nui.* The legislative branch included the king, the *kuhina nui,* a house of nobles of fourteen hereditary members, and a house of representatives of seven members popularly elected. Sessions of the legislature were annual. The two

houses sometimes convened separately, sometimes together. A majority of each house had to approve any legislative act. The king, the *kuhina nui,* and four judges appointed by the legislature made up the supreme court, which had both original and appellate jurisdiction. District judges, named by the governors, had local jurisdiction only. Amendment of the constitution could be effected by the legislature, after one year's notice, with the approval of the king.

For the next fifty years Hawaii was a constitutional monarchy.

Constitutional progress.—The plan of 1840 was no sooner set in operation than the task had to be done over again. Details of this reorganization were worked out by an American medical missionary, Dr. G. P. Judd, and two young American lawyers, John Ricord and William L. Lee, both of whom had visited the Islands in the course of their travels and had been persuaded to remain. Two important changes were made. The administrative work of the government was organized into five departments: interior, foreign affairs, finance, public instruction, and justice. Heads of these departments, together with the governors of the islands and certain honorary members, constituted a privy council to the king. The judiciary of the kingdom was reorganized into district, circuit, and supreme courts. The supreme court was to consist of one chief justice and two associate justices; the circuit courts were four in number; and the district courts were twenty-four.

In 1850 the number of the house of representatives was raised from seven to twenty-four, and the king's ministers were allowed to take part in the proceedings of the house of nobles. Along with these governmental in-

novations was the "grand *mahele*" (great division), which transferred the system of land tenure from a feudal basis to a modern one.[1]

The year 1852 ushered in still another constitution. At this time the exact powers and functions of the different branches of the government were put down in writing. The king retained authority to veto legislative acts, to command the army and navy, to convene the legislature, to grant pardons, to make treaties, to appoint and receive ambassadors, and to appoint and remove heads of departments. But all of the official acts of the king had to be approved by the minister of the administrative department involved and also by either the privy council or the *kuhina nui*. This is the germ of parliamentary government in Hawaii.

The revision of 1852 left the positions of the *kuhina nui* and the privy council practically unchanged, except that the ministers were required to make formal reports to the legislature once a year. The house of nobles was fixed at thirty in number; its members no longer inherited their seats but were appointed by the king for life. The house of representatives could consist of from twenty-four to forty members. It was given power to originate money bills. Terms of the island governors were fixed at four years, their appointment to be confirmed by the privy council. There was no change in the judiciary.

By this time the kingdom of Hawaii was recognized throughout the world as an independent nation. From time to time the political integrity of the Islands had been threatened by the imperialistic ambitions of France, then Russia, then England. For half a century Hawaii had

[1] See below, pages 147–148.

progressed apace. But there were yet mountains to climb and bridges to cross.

By 1864 the crown had devolved upon Kamehameha V, who was firmly convinced that the constitution of 1852 was altogether too liberal. He tried to persuade a constitutional convention to his view. He failed. Then he declared a new organic act on his own authority. This struck from the bill of rights the clause guaranteeing the right to vote, and placed a property and educational qualification on the franchise. It abolished the office of *kuhina nui*. The nobles and the representatives were to sit in one house, styled the legislative assembly, and no one could be elected as a representative who did not have property worth at least five hundred dollars or an income of two hundred and fifty dollars a year. Powers of the privy council were reduced in some fields, but that body was given authority to vote appropriations in case the legislature refused to do so. Kamehameha's constitution made no provision for governors for the outlying islands.

The death of the king in 1872 presented a difficult constitutional question. He and his predecessors had been direct descendants of Kamehameha I, and there was little doubt at any point upon whom the crown should rest. The constitution of 1864 gave the king the right to choose his successor, and on his deathbed Kamehameha V appointed a distant relative who was a princess and a descendant of Kamehameha I. But she declined the honor. The cabinet solved the problem by calling the legislature to elect a king. There were two candidates among the *alii* (chiefs). At the request of one of these, Lunalilo, and over the protest of the other, Kalakaua, an informal popular preferential election was held a few days before the legislature met. Lunalilo won a decisive victory. The vote of the legisla-

ture was unanimous and Lunalilo was crowned king. But within a year the new king was dead. The legislature chose Kalakaua to succeed him.

Kalakaua was a picturesque figure, affable, intelligent, of good education. Robert Louis Stevenson thought highly of him. On a trip around the world he was everywhere treated with royal honor and was universally liked. But he became unpopular at home because of his insistence on the absolute right of kings. In 1877 opposition to him became so well organized that a bloodless revolution forced him to sign a new constitution. According to its provisions, the king could act only with the consent of the cabinet. Eligibility to the legislature was denied to anyone who held judicial or executive office, to any contractor or employee of the government, and to anyone receiving a salary from the government. Appointment of legislators to civil office was prohibited. The number of nobles was increased to forty; they were made elective for terms of six years; they were required to have property to the extent of three thousand dollars or an income of six hundred dollars a year; and they received no salary. Ministers were made responsible to the legislature, removable by a majority vote. A high property qualification was placed on the right to vote for nobles, and the privilege of voting was extended to resident foreigners of American or European birth or descent, provided they took an oath to support the constitution. Kalakaua found himself a king in a constitutional monarchy of the limited sort.

Last days of a kingdom.—The struggle for constitutional control with Kalakaua foreshadowed the conflict which culminated in the revolution of 1893. Nor was the situation much improved when Kalakaua was succeeded by his sister. Liliuokalani, like her royal brother, had a

good education. She was a poet and a musician, the author of the famous farewell song of Hawaii, "Aloha Oe." But she shared her predecessor's royalist beliefs and was not strong enough to gain for them any wide acceptance. During the last week of a long legislative session, which began in 1892, the queen executed a legislative *coup d'etat.* She procured the passage of two obnoxious bills, one licensing the sale of opium, the other granting a franchise to establish a lottery. Shortly afterward she issued a proclamation that she would hand down a new constitution. Public feeling, already intense, became active. Leaders of the opposition gathered in a large downtown office, appointed a committee of safety, and summoned a mass meeting for the next day.

The queen became thoroughly frightened, and promptly issued another proclamation stating that there would be no change in the government except in the manner provided for by law. Her assurance came too late. People gathered at the meeting as scheduled, enthusiastically approved the action taken by the committee of safety, and authorized it to take any further steps which might be necessary. The following day revolutionary forces approached the palace grounds. The brass-buttoned royal guards dispersed with only a murmur. New leaders took over the government. And Hawaii as a kingdom passed into history.

It was the plan of the committee of safety to set up a provisional government and apply for admission to the United States. Annexation to the American nation had been seriously talked of for a long time; in 1854 the Hawaiian government had been on the point of proposing a treaty to that effect when the king, Kamehameha III, died and his successor, the fourth Kamehameha, opposed

the scheme. The new provisional government set up by the committee of safety consisted of four members: the president and minister of foreign affairs, the minister of the interior, the minister of finance, and the attorney-general. An advisory council of fourteen members was also set up, having legislative authority. An annexation treaty with the United States was signed on February 14, 1893, and was sent by President Harrison to the Senate. There it remained unapproved; Cleveland, the new President, withdrew it.

When it became evident that Hawaii would not be annexed for some time, the provisional government set about making itself permanent. A new organic law was announced by a constituent convention on July 4, 1894. This constitution contained a very extensive bill of rights, guaranteeing religious freedom, freedom of speech and of the press, the right of meeting, and that of petition. Citizenship was conferred upon all persons, native born or naturalized, and all persons not already citizens who had aided in the establishment or maintenance of the provisional government. For naturalization, one must have lived in the Islands two years, must be able to read and write English, must have two hundred dollars worth of property, and must take the oath of allegiance to the Republic. Executive power was vested in an executive council composed of the president, the foreign minister, the minister of the interior, the minister of finance, and the attorney-general. The president was chosen by the legislature and was ineligible to re-election; he appointed ministers and judges with the approval of the upper house. A senate and a house of representatives constituted the "Legislature of the Republic of Hawaii." The senate was of fifteen members, serving six-year terms. To be elected

to it one must be a male citizen, thirty years old, able to read and write English or Hawaiian, and have property worth three thousand dollars or an income of twelve hundred dollars a year. The house was of the same number and elected for a two-year term; members were required to be male citizens, to be twenty-five years of age, able to read and write English or Hawaiian, and to have property worth one thousand dollars or an income of six hundred dollars a year. There was provided a council of state composed of five members elected by the senate, five by the house, and five appointed by the president with the approval of the cabinet. This council was to advise the president, to appropriate money between sessions in case of emergency, and to issue pardons with the consent of president and cabinet. The judiciary was unchanged. Electors were privileged against arrest on election day except for breach of the peace or a felony. A cumulative vote[2] was allowed in case of elections to more than one office; and a property qualification of fifteen hundred dollars in real property, three thousand dollars in personal property, or income of six hundred dollars was required of all who would vote for senators.

American annexation.—Although postponed, annexation to the United States was not given up. No action was taken during Cleveland's administration. Soon after the inauguration of President McKinley, negotiations were re-opened, and a new treaty was signed, January 16, 1897. There was no doubt as to the desire of the Hawaiian gov-

[2] The cumulative system of voting is one generally applicable where more persons than one are to be elected to office. Suppose five offices are to be filled. Each voter has five votes. He can vote all five for one candidate or can distribute them as he chooses. The advantage is that this plan enables a minority to get representation by concentrating on one or two candidates.

ernment; but, while a majority of the American Senate approved, the necessary two-thirds vote for annexation was not forthcoming. After the failure of annexation by treaty, a joint resolution was prepared in Congress.[3] This passed both houses and was signed by the President on July 7, 1898. Transfer of sovereignty took place on August 12, at the capitol building in Honolulu.

The Newlands Resolution, as the annexation act was called, deserves attention from the point of view of the United States. It marked the second annexation by joint resolution in American history. The first had been that of Texas, and the reason was then, as in 1898, that the necessary two-thirds vote of the Senate was unobtainable. The courts had long recognized the right of the federal government to annex territory by treaty. As early as 1828 Chief Justice Marshall had declared,[4] "The Constitution confers absolutely upon the government of the Union the power of making war and making treaties; consequently the government possesses the power of acquiring territory either by conquest or by treaty." There was some constitutional justification for the annexation of Texas by joint resolution, for Article IV, clause 3, gives Congress power to admit states "into this Union," and Texas was admitted directly to statehood. But nowhere by direction or by indication is Congress given constitutional authority to admit territory, as such, by joint resolution. While the Supreme Court has never passed precisely on this point, the court has tacitly approved the exercise of the power by enforcing laws affecting Hawaii.

The Newlands Resolution is a short document. Its

[3] 30 United States Statutes at Large 750.

[4] *American Insurance Company* v. *Canter,* 1 Peters 511.

first sentence extends the sovereignty of the United States over Hawaii. Provisions to protect the extensive government lands in the possession of the Hawaiian Republic, which had been the subject of considerable negotiation, constituted the second paragraph of the act. Further, existing laws regarding public lands in the United States were not to apply to Hawaii, but Congress was to enact special legislation. Proceeds from the sale of all public lands—except those set aside for naval, military, or local government purposes—were to be used for the benefit of the people of Hawaii.

The entire government of the Islands was vested in the President of the United States. McKinley kept in power those then in control of the Republic. Its president, Sanford B. Dole, he made first governor of Hawaii. Existing treaties of the Republic of Hawaii were to cease and be supplanted by treaties of the United States. "The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of treaties so extinguished and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine."

Existing customs duties were to remain in force temporarily. The lawful debt of the Republic, not to exceed four million dollars, was assumed by Congress. Further immigration of Chinese to the Islands was prohibited, and those in Hawaii were not to be allowed to enter the United States. The Resolution concluded by providing for a commission of five, to be appointed by the President with the consent of the Senate, to recommend appropriate legislation for the Islands.

It was the purpose of Congress to put the Islands on a temporary basis, and Hawaii did not become a territory until the passage of the Organic Act of 1900. The exact status of Hawaii during those two years has been the subject of much debate among historians and lawyers. While we are not directly concerned with the dispute, we shall consider it briefly in the course of the next chapter.

BIBLIOGRAPHY

For references on this chapter, see Ralph S. Kuykendall, *A History of Hawaii* (The Macmillan Company, 1926), chapters viii, xii, xiv, xv, and xx–xxv; Henry C. Chambers, "Constitutional History of Hawaii," *Johns Hopkins Studies in Historical and Political Science,* XIV (1896), 1–38. A copy of a doctoral thesis at New York University (1925), entitled *The Evolution of Government in Hawaii,* was made available to me by its author, K. D. Lum.

CHAPTER III

HAWAII AND THE UNION

Three types of territory.—An English writer has recently remarked that the only thing about the Constitution not subject to change is the American citizen's belief in its fixedness. Truly, of all the moving phases of constitutional law none has undergone such transformation as that which deals with the relation of American territories to the Union. Probably this is because of the fact that the fundamental law itself has so very little to say on the subject. The only indication of the intention of the makers of the Constitution is in Article IV, Section 3, which reads: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The rest of the instrument seems to postulate, both in spirit and in wording, a group of states and nothing else.

As early as 1803 the interpretation of this clause began to vex the nation. The question then at issue was whether or not the federal government could annex Louisiana without a constitutional amendment. President Jefferson was hard put to it to find legal justification for his policy, but Louisiana was annexed. The courts have apparently recognized the power of the federal government to annex territory, either, as we have seen, through the exercise of the treaty-making power, or by joint resolution of Congress, signed by the President.[1]

Next came the problem as to who should govern the

[1] *American Insurance Company* v. *Canter,* 1 Peters 511; *Fleming* v. *Page,* 9 Howard 603; *Scott* v. *Sandford,* 19 Howard 393.

territory so annexed. The Supreme Court answered, without hesitation, that the power to govern all the areas not admitted to statehood was in Congress. The extent of Congressional authority was a subject of contention before the courts all during the last century and is not yet entirely settled. But with the decision of the so-called "insular cases," in 1900, the present legal status of those regions which are not organized into states was practically fixed.

The area under the American flag may be classified as (1) states; (2) territories; and (3) possessions. We all know what the states are. Territories are those areas which have not been fully admitted to statehood but which have been incorporated into the Union, that is, brought entirely under the protection of the Constitution. Possessions are those areas which are not incorporated into the United States, and are not really fundamental parts of, but only appurtenant to, the American nation. These terms are confusing. Many writers on constitutional law apply the word "territories" to describe all the areas under American sovereignty which are not states. And they classify the territories by calling them incorporated territories and unincorporated territories. But it seems simpler to designate the non-state areas which are fundamental parts of this nation as territories, and the non-state areas which are not fundamental parts of this nation as possessions. At this time (1929) Hawaii and Alaska are the only existing American territories; the various American possessions are Porto Rico, the Philippines, the Virgin Islands, American Samoa, the Panama Canal Zone, Guam, and a few minor islands.

It will be our purpose to examine the relation of the Territory of Hawaii to the nation and to compare this

relationship with that of states to the nation and of possessions to the nation. First, we shall examine the degree to which states, territories, and possessions participate in the affairs of the national government. Second, we shall examine the extent of the authority of the national government over states, territories, and possessions. And, finally, we shall observe the legal rights, as against the national government, of the citizens within the states, the territories, and the possessions.

Legal relation.—Let us try first, therefore, to discover to what extent states, territories, and possessions are vested with power to control in some respect the functioning of the national government. It is obvious, but not often appreciated, that American citizens participate in determining the policies of the national federation only through the medium of the states. The President is selected by an electoral college composed of members elected from each state. The Senate is made up of two members from each state. The House of Representatives is apportioned, or at any rate should be apportioned, according to the population of the states. An amendment to the federal Constitution must be approved by a two-thirds vote of both houses of Congress, houses chosen by the states, and approved by the legislatures of or conventions in three-fourths of the states. From beginning to end, the reins which guide the progress of the national government lead only from the states and the citizens of the states. The territories and possessions are out of it. It is true that Hawaii and Alaska send one delegate-at-large each to Congress, and that Porto Rico sends one and the Philippines send two resident commissioners to Congress. But these representatives have no vote. Their influence, if any, is personal. Both great political parties also grant repre-

sentation to territories and possessions in their nominating conventions. But this results in only indirect, indefinite power. As for any share in the formal, legal control of the federal government, such as the states have through the election of the President and of Senators and Representatives and through amendment of the Constitution, the territories and the possessions have none.

Not only are territories and possessions inferior to the states in that they exercise no influence over the federal government but also in that the federal government has much more authority over the territories and the possessions than over the states: first, from the general theory of the federation itself; and, second, from the interpretation which the courts have put upon the constitutional restrictions on Congress.

It is fundamental in the constitutional theory of the American federation that the states are sovereign in certain fields; they have certain inherent powers, certain authority which is neither granted nor delegated to them. The federal government, on the other hand, has only the powers specially delegated to it, such as the powers to declare war, to levy taxes, to regulate interstate commerce, and to coin money. All governmental powers not granted to the national government are, according to the Tenth Amendment, reserved "to the states or to the people." But this theory of federal power does not apply to the territories and the possessions. They are not sovereign. They have no inherent powers. The federal government has entire control over them. Any authority which they have is delegated to them by Congress. One of the prime tests of sovereignty of an area is its ability to change its form of government. States can do this at will, except only as limited by the federal constitutional provision that they

shall have a republican form of government. But the territories and the possessions have governments handed to them by Congress. All governmental powers over the territories and the possessions are in Congress; and Congress allots what authority it wishes to whatever agencies it desires to set up within the local areas. With the limitations on this power as fixed by the Constitution we shall be concerned presently.

Now, from the standpoint of the general theory of the Constitution, the power of the national government over the territories and the possessions differs from the power of the national government over the states not only as to the establishment of local government but also as to the regulation of the social and personal relations of the people. There is no question but that Congress has the same power to pass laws for the territories as it has to pass laws for the states: in the regulation of interstate commerce, in the control of military forces, and in those other fields peculiar to national control. But over the territories and the possessions Congress has a more extended authority. Over them Congress has also that power which in our federal plan we have allotted to the states. As the Honorable W. F. Frear, former Chief Justice of Hawaii, has said:

> Congress is a legislative body of a dual nature. As a national legislative body its powers are derived from and limited by the specific enumerations and their necessary implications. . . . . But as a local legislative body for the territory not included within the states proper, its legislative power has a broad scope and is substantially co-extensive with the combined legislative power of the national and state legislative authority.[2]

The chief addition to the power of Congress in dealing

[2] This quotation is taken from a private opinion by Mr. Frear.

with the local affairs of territories and possessions is what is known as "the police power of the states." This is the power to make laws concerning the private affairs of individuals, concerning property, contracts, public safety, public health, public morals, and the general welfare of the community. Within state areas these powers are exercised by the states themselves. Within the territories and the possessions they are exercised by Congress. And thus in the *Hauseman* case[3] it was held by the district court of Hawaii that the federal law against opium was not a violation of the police power of the territory, for the simple reason that the entire police power was in the federal government. In *Endleman* v. *United States*[4] Justice Morrow declared that a federal law prohibiting the sale of liquor in Alaska, before the passage of the Eighteenth Amendment, was constitutional for the same reason. He said:

> The United States having rightfully acquired the territories and being the only government which can impose laws upon them has the entire dominion and sovereignty, national and municipal, federal and state. . . . . It may legislate in accordance with the special needs of each locality and vary its regulations to meet conditions and circumstances of the people. Whether the subject elsewhere would be a matter of local police regulation, or within state control under some other power, is immaterial to consider.

And so, while Congressional acts regulating the speed of automobiles, the making of contracts, or the closing of shops on Sunday within the state of Illinois would be unconstitutional as invading the functions of the state government, yet the same laws for Hawaii or Porto Rico would be entirely within the just powers of Congress.

[3] 4 United States District Court of Hawaii 202.

[4] 86 Federal Reporter 456.

Now we have seen that from the very nature of the federal Union the national government has decidedly more authority over the territories and the possessions than it has over the states. We have seen that, in fact, the entire governmental control over territories and possessions, in every form, rests in the nation. Having noted this power, we must now consider to what extent it is limited by the federal Constitution.

It is necessary at this point to make one very important observation: Since in legislating for the states the federal government is a government of delegated powers and in legislating for the territories and the possessions the federal government is one of inherent powers, the courts have taken the view that, whereas in legislating for the states Congress has only those powers especially delegated to it by the Constitution, in legislating for the territories and the possessions Congress has all those powers of sovereign government not specifically denied it by the Constitution.

The constitutional limitations on Congress are of two kinds, those for the benefit of the states as such, and those for the benefit of the people. An example of the first is the provision that no new state shall be formed by the junction of two or more states without the consent of the legislatures of the states concerned. An example of the second is the provision that the right of citizens to be secure in their persons, houses, and effects shall not be violated. Obviously, the limitations on Congress in favor of the states are inapplicable when the federal government is dealing with the territories. This, of course, greatly extends the authority of the nation over the territories and the possessions.

One of the problems which arose in the discussion of

constitutional restrictions was whether or not there were any limitations as to what form of government Congress might set up for territories and possessions. We said a moment ago that there are none. We know that over the territories and the possessions the federal government has complete sovereignty; has, in the last analysis, complete governmental authority—except only as specially restricted by the Constitution. Does the Constitution restrict Congress in establishing local governments for outlying territories and possessions? The first question to be asked the courts was whether or not territorial courts established by Congress were "inferior courts" within the meaning of Article III of the Constitution, so that judges of these territorial courts would have to be appointed for life and their compensation could not be reduced during their continuance in office. The Supreme Court in *American Insurance Company* v. *Canter*[5] held that this limitation did not apply, and Congress was not restricted by it. The only other provision of the Constitution which might limit the nation in establishing local governments for its outlying areas is that found in Article IV, which guarantees to the "states" a republican form of government. Obviously that is not in point. Therefore, the courts have said, Congress has practically complete discretion as to the form of local government which it may grant to territories and possessions.

Now we shall digress long enough to observe that there are those in Hawaii who urge that their territory is an exception to the rule and that Congress is bound to give the Islands a representative form of government because of the peculiar conditions under which they joined

[5] 1 Peters 511.

the United States. That is not true. Their argument is that Hawaii was annexed by her own free will and on condition that she become an integral part of the United States. However, the only qualifications governing Hawaii's entrance into the nation which have any legal effect are those of the Newlands Resolution. This declares that the Republic of Hawaii consented to annexation "without reserve." It is often contended that annexation was not accomplished by the Newlands Resolution, but that this act is only an acceptance of the treaty negotiated for annexation and that recourse must be had to the treaty to explain the terms of the Resolution. There is much to be said for that view. Of course, the only constitutional method of accepting a treaty is through ratification by the President and two-thirds of the Senate. Under that procedure the treaty was rejected. Only when it had been effectually placed in the Senatorial discard was the Newlands Resolution introduced.

However, accepting the Resolution as a consummation of the treaty, the latter document itself specifically says that Hawaii does not qualify her offer to join the United States. Article I of the treaty declares:

> The Republic of Hawaii hereby cedes absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies; and it is hereby agreed that all territory of and appertaining to the Republic of Hawaii is hereby annexed to the United States of America under the name of the Territory of Hawaii.[6]

Now if we assume that the treaty means what it says, it furnishes even stronger evidence that there was no intention to give Hawaii any special privileges. In other

[6] Senate Report 681 (55th Congress, 2d Session).

words, Congress has plenary power over Hawaii in respect to its form of territorial government.

So far we have considered the relations between the territories, the possessions, and the states, on the one hand, and the national government, on the other, in connection with their participation in the affairs of the nation and the control of the nation over them. Now we come to the individual rights of the persons in the different strata of organization. In reality this is a subpoint under the power of the national government over the different local units. But its importance is so great and it is so different in its legal content that it is advisable to isolate this point and consider it alone.

Incorporated and unincorporated areas. — Historical excursions are often tedious, but in dealing with the comparison of the individual rights of the inhabitants of the states, the territories, and the possessions it is necessary to observe what has happened in the past in order to understand the present. Until very recently there was no doubt that the residents in one area under American jurisdiction had the same rights as the residents in any other. They were all American citizens, whether they lived at Yorktown, Santa Fe, or Sitka. But with the turn of the century the nation adopted a new policy of colonization, and in the course of its "manifest destiny" reached out and added to itself, for the first time, territory which for many years to come would be peopled by races and nationalities fundamentally different in civilization, culture, and ideals from the Anglo-Saxons of North America. Of course, over Porto Rico, the Philippines, the Canal Zone, and Samoa, Congress had both national and municipal jurisdiction; sovereignty over them was in the federal government, and their form of government could be

molded to suit the will of Washington. But, Congress asked, must we treat the Filipinos and the Porto Ricans as individuals exactly as we would treat the citizens of Arkansas or Minnesota? Must we guarantee them Anglo-Saxon forms of jurisprudence unfamiliar to them? Must we allow them the full measure of our citizenship? Cannot we tax their imports to us? It was a difficult problem.

The problem was met in the famous "insular cases" referred to before, the most important being that of *Downes* v. *Bidwell*.[7] That case was bitterly fought, as can be seen from the fact that the members of the Supreme Court handed down five distinct opinions, covering more than one hundred and fifty pages. It was a five-to-four decision, and even the five majority judges disagreed as to the basis of their opinions. But Justices White, Shiras, McKenna, and Gray all united in one view, which is now definitely fixed as law.

This decision was the first to furnish a distinction between territories and possessions. The prevailing opinion said that in regard to those limitations which are placed on Congress for the protection of individuals, when the limits are applied to the federal government in making laws for territories and possessions, their applicability in full depends on whether or not the areas concerned are incorporated territories or non-incorporated possessions. The opinion said that in legislating for incorporated territories all the restrictions apply to Congress in the same manner as in legislating for the states. On the other hand, when passing laws for the possessions not fully incorporated into the Union, Congress is not bound by some of the constitutional restrictions in favor of individual citizens.

[7] 182 United States 244.

There are two types of limitations which do not protect citizens of non-incorporated possessions: (1) Those which by their very wording in the Constitution itself are limited to the United States proper. Thus the *Downes* case held that the restriction of Article I that "all duties, imposts, and excises shall be uniform throughout the United States" did not apply to Porto Rico, because that provision is specifically limited to "the United States" and, while Porto Rico belonged to this country, it had not been incorporated into the Union and therefore was not fundamentally a part of the United States. In so deciding, the Court declined to promise how it would hold on other provisions, but we may safely assume from the reasoning of the *Downes* case that all similarly worded limitations in the Constitution will be treated in the same fashion. Thus it is probable that such provisions as are found in Article I giving Congress power to pass uniform rules of naturalization and bankruptcy "throughout the United States" would not restrict the federal government in legislating for non-incorporated possessions.

(2) Then said the Court: there are some limitations in the Constitution which do not guarantee fundamental rights of human beings but only remedial or procedural rights peculiar to Anglo-Saxon ways of doing things. These protections of remedial rights do not apply to non-incorporated possessions. Such a distinction was a new and important one in American constitutional law.

Justice Brown in his concurring opinion points out some of the remedial rights which are not guaranteed to the people of unincorporated possessions: "the right to citizenship, to suffrage, and to the peculiar methods of procedure which are peculiar to Anglo-Saxon jurisprudence." Trial by jury has been held to be a remedial

right,[8] and not applicable to possessions. While the Court has never said so, probably most of the guaranties enumerated in the Fourth, Fifth, Sixth, and Seventh Amendments would likewise be considered not fundamental. These limitations for the protection of remedial rights, therefore, join those which are specifically limited to the United States proper, and make a class of limitations which do not hamper Congress in passing laws involving areas not incorporated into the Union. But they do apply in all vigor to the making of laws for incorporated territories, as well as for states.

The Court was very careful, however, to point out that there are some constitutional limitations which must be followed in dealing with all kinds of territory. Said Mr. Justice White, speaking for the majority judges:

> Albeit as a general rule the status of a particular territory has to be taken in view when the applicability of any provision of the Constitution is questioned, it does not follow that, when the Constitution has absolutely withheld all power on a given subject, such an inquiry is necessary. Undoubtedly there are general prohibitions in the Constitution in favor of human liberty and property of the citizen which are not mere regulations as to the form and manner in which a conceded power may be exercised, but which are absolute denials of all authority under any circumstances or conditions to do particular acts. In the nature of things, limitations of this character cannot under any circumstances be transcended, because of the complete absence of power.

Thus, since some limitations, which (1) are specially limited to the United States proper or (2) are protective of remedial rights, are not applicable to Congress in deal-

[8] *Hawaii* v. *Mankichi,* 190 United States 197; *Dorr* v. *United States,* 195 United States 143.

ing with unincorporated possessions, the converse is also true; and those limitations (1) which withhold all authority from the national government on a given subject or are specially extended over all the area under American control, or (2) which are protective of fundamental human rights, are applicable to Congress in legislating for all American areas. For example, the Thirteenth and the Eighteenth Amendments prohibiting slavery and intoxicating liquors are specifically made applicable to "the United States and all territory subject to the jurisdiction thereof." Mr. Justice Brown, in his concurring opinion, mentions some of the rights protected which are fundamental and not merely remedial:

> .... the right to one's own religious opinions and to a public expression of them, or, as sometimes said, to the worship of God according to the dictates of one's own conscience; the right of personal liberty and individual property; the freedom of speech and of the press; the right to free access to courts of justice, to due process of law, and to an equal protection of the laws; the right to immunities from unreasonable search and seizure as well as cruel and unusual punishments; and to such other immunities as are indispensable to free government.

Accordingly we see that, although in their participation in the national government, and in the control of the national government over them as political units, the territories and the possessions are on much the same plane, as to the rights of their individual citizens they are quite different. Citizens of both types of areas are protected by those constitutional restrictions which are all-extensive in their scope or are fundamental in their nature.[9] But

[9] Professor Charles K. Burdick has suggested to me that the Supreme Court might not apply the so-called "fundamental" limitations on Congressional legislation dealing with possessions; that in

citizens of non-incorporated possessions are not protected by limitations which are specially designed for the United States proper or are only to guarantee purely remedial rights. The citizens of incorporated territories, like the citizens of the states, enjoy the benefits of complete constitutional protection.

Naturally we ask ourselves what marks the difference between an incorporated territory and a non-incorporated possession? What is necessary to give an area the status of incorporation? We do not know exactly. From Justice White's opinion in *Downes* v. *Bidwell* it is clear that he thought that an act of Congress extending to a territory all the privileges and immunities of citizens of the United States would incorporate the territory.[10] It has been definitely held that Alaska is an incorporated territory,[11] and that the Philippines[12] and Porto Rico[13] are not. The Court in *Rasmussen* v. *United States* followed the assumption of Justice White in the *Downes* case in holding that this clause in the treaty with Russia providing for annexation of Alaska incorporated Alaska into the United States:

> The inhabitants of the ceded territory . . . . shall be admitted to the enjoyment of all the rights, advantages, and im-

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making laws for possessions Congress would have complete freedom except as to those subjects on which Congress is absolutely prohibited to legislate at all—such as granting titles of nobility or levying export taxes. Both his conclusion and mine are guesses. Mine has the solitary comfort of the dictum by Mr. Justice Brown in the *Downes* case quoted above.

[10] 182 United States 244, 333.

[11] *Rasmussen* v. *United States,* 197 United States 516.

[12] *Dorr* v. *United States,* 195 United States 138.

[13] *Balzac* v. *Porto Rico,* 258 United States 298.

munities of citizens of the United States; and shall be maintained and protected in the full enjoyment of their liberty, property, and religion.

In the case of Porto Rico, although Congressional legislation had extended to the inhabitants virtually all of the protective provisions of the Constitution, yet the Court declared that the island was not incorporated. The Court declared that incorporation was a question of intent in each individual case, and that an enactment which would incorporate a sparsely settled but comparatively homogeneous area like Alaska would not be sufficient to incorporate an island like Porto Rico, which is densely populated with men and women who have not been accustomed to American governmental forms and jurisprudence. The Court further remarked that since the decision of the insular cases they would not presume incorporation without express declaration of Congress; that there must be a clearer declaration after the insular cases than before.

Now what is the status of Hawaii? The Supreme Court has yet to declare definitely upon this. Some of the best textbooks on American government list Hawaii as an unincorporated area.[14] Two influences, probably, have led writers to this conclusion. One is that Hawaii joined the United States at about the same time that the nation

[14] See Ogg and Ray, *Introduction to American Government* (The Century Company, 1923), p. 478; W. B. Munro, *The Government of the United States* (The Macmillan Company, 1925), p. 421; and Everett Kimball, *The Government of the United States* (Ginn & Company, 1920), p. 367. W. W. Willoughby in his *Constitutional Law of the United States* (Baker, Voorhis & Company, New York, 1910), p. 432, seems to intend to leave the same impression, while J. P. Hall, in *Constitutional Law* (LaSalle Extension University, Chicago, 1925), p. 265, dodges the point by leaving Hawaii out of his classification of incorporated and unincorporated areas.

acquired Porto Rico and the Philippines and writers are psychologically moved to place all three in the same category. The second influence, more tangible but probably less real, is the decision of the Supreme Court in *Hawaii* v. *Mankichi*.[15] That case arose from these facts: After annexation of the Islands but before the passage of the Organic Act making Hawaii a territory, Mankichi was convicted of murder by a jury of less than twelve, which was in accordance with a Hawaiian statute passed prior to annexation. Mankichi then came into the federal courts and argued that this statute was in violation of the Sixth Amendment to the federal Constitution guaranteeing trial by jury and meaning, of course, a jury of twelve. The resolution of annexation had provided that

> The municipal legislation of the Hawaiian Islands not enacted for the fulfillment of treaties, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States . . . . shall remain in force until the Congress of the United States shall otherwise determine.

Therefore, contended Mankichi, this statute being in opposition to the Sixth Amendment, a fact admitted by everyone, it was invalid and his conviction could not stand. But the Court thought otherwise. They examined the Resolution and came to the conclusion that the mere negative phrase "nor contrary to the Constitution of the United States" was not enough to incorporate Hawaii into the United States and thus Hawaiian citizens were not entitled to the complete protection of the Constitution. They then noted that the right to trial by jury was a remedial right and not a fundamental one, that if this statute were held invalid there would be no possible way of convicting

[15] 190 United States 197.

murderers,[16] and they deduced that such a situation would be so preposterous as to be quite beyond the contemplation of Congress in passing the Resolution and that therefore the territorial statute was valid. They did say, however, that statutes enacted subsequent to the annexation must conform to the Constitution. And so Hawaii under the annexation resolution was placed in a position midway between that of an incorporated territory and an unincorporated possession.

But it would seem that any careful examination of the situation leads one to the conclusion that Hawaii is today an incorporated territory. In the first place, the *Mankichi* case arose after annexation but before the passage of the Organic Act, which is really what is relied on to prove incorporation. And in the decision of the case, which was not given until after the Organic Act had become law, the judges left no room for doubt that in their minds Hawaii was incorporated into the United States by the Act. One of their best arguments was that it was not until the Organic Act that Hawaii *had become* incorporated. The very last sentence of Justice Brown's opinion, speaking for the Court, is:

> Of course, for reasons already stated, the question involved in this case could arise only from such as occurred between the taking effect of the joint resolution and the act of April 30, 1900, establishing the territorial government.[17]

Justice White in his concurring opinion, speaking for him-

[16] This, as a matter of fact, was not true. Hawaiian law provided an alternative method of trial by means of a jury of twelve. 190 United States 197, 206.

[17] 190 United States 197, 218. This refers, of course, to the Organic Act.

self and Justice McKenna, says the same thing in these words:

> The meaning of the resolution of annexation thus indicated by its terms is reflexly demonstrated by the act "to provide a government for the Territory of Hawaii" approved April 30, 1900, by which the islands were undoubtedly made part of the United States in the fullest sense and given a territorial government.[18]

The Organic Act itself indicates a very clear intention to incorporate Hawaii. It provides,

> that the Constitution, and, except as otherwise provided, all the laws of the United States, including laws carrying general appropriations, which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States

and always refers to Hawaii as a territory, never as a possession. What could be clearer? Nothing, perhaps, except actual use of the word "incorporated," but it must be remembered that that word made its initial bow in American constitutional phraseology in the opinion in *Downes* v. *Bidwell* and that the Organic Act was written and passed before the opinion in the *Downes* case was handed down.

All the acts and words of those who had to do with the annexation and establishment of Hawaii as a territory indicate that it was their intention to fix Hawaii permanently as an integral part of the United States and that it was their belief that the Organic Act accomplished this.[19]

[18] 190 United States 197, 220.

[19] For a collection of these statements see the "Hawaii Bill of Rights" passed by the territorial legislature in 1923, chap. 86, to be found in Revised Laws of Hawaii, 1925 (hereafter cited as Revised

How far such "parol evidence" could be used to influence a court may be doubtful, but for us it should be fairly conclusive.

Furthermore, in 1927 the United States Supreme Court handed down an opinion in the case of *Farrington* v. *Tokushige*[20] in which it applied the Fifth Amendment to Hawaii. In all probability no unincorporated possession is protected by this amendment. So clear was it to the Court that Hawaii was within its provisions that it was not argued nor discussed. It was just assumed. And so from the nature of the *Mankichi* case, from the dicta of its judges, from the Organic Act itself, from the intentions of its framers, and from the subsequently apparent attitude of the Supreme Court, it seems very evident that Hawaii is an incorporated territory, an integral part of this United States. It is firmly protected by the Constitution.

Once a territory has been incorporated into the United States the Constitution cannot be withdrawn from it by Congress. Justice Brown in the *Downes* case said: "When the Constitution has been once formally extended by Congress to territories, neither Congress nor the territorial legislature can enact laws inconsistent therewith." The point was finally decided in *Rasmussen* v. *United States,* wherein a man was convicted under a law passed by Congress for Alaska which provided a trial by jury of six for misdemeanors. The Supreme Court held that, because Alaska had been incorporated into the Union pre-

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Laws of 1925, etc.), p. 133. See also "Extension of Remarks of Victor S. K. Houston, Delegate to Congress," in the *Congressional Record,* December 17, 1928, quoting Professor K. C. Leebrick of the University of Hawaii.

[20] 273 United States 284.

viously, the statute was void. If a statute could repeal incorporation, it would have done so here by implication.

So far in this chapter we have been examining the legal status of American territories and orientating Hawaii as one of them. In terms of human relationships the difference between Hawaii and the Philippine Islands, for example, is this: Congress has power of local regulation over both, unrestricted by many of the usual curbs; Congress could give to the people of either area any type of government; but Congress can deny citizenship to the Filipinos and cannot to those in Hawaii; Congress can refuse to grant trial by jury to the Philippines, though it cannot to Hawaii; Congress can levy a tariff on imports from the Philippines, but it cannot on those from Hawaii; Congress can refuse to allow Filipinos to travel to the States, but it cannot refuse the privilege to the people of Hawaii.

Now as between Hawaii and California, the situation is very different. While Hawaii and the Philippines are about on a par as to their rights as political units (either could be furnished with any form of government; neither has a fixed status in the Union), it is as to these rights that the chief difference between an incorporated territory and a state appears. Since the people on the mainland can exercise control over the federal government only through the states, those in Hawaii can have no share in the control of the federal government. They have no vote in Congress, nor any in the electoral college choosing the President. In the control of their own affairs they are not as independent as are the states. For amendments to the Hawaiian Organic Act they must depend on the federal government, and any law of their local legislature, as we shall see, could be amended or abolished by Congress.

Finally, Hawaii's chief executive, the governor, is chosen by the President, as are the supreme court and circuit judges, and the secretary of the territory.

But as to the rights of the individual citizens, people in Hawaii are not inferior to those of the states. The humblest newborn child in Honolulu could no more have the plenitude of his privileges of American citizenship taken from him than could the governor of New York.

Thus the difference between Hawaii and the Philippines is in the individual rights of its citizens; the difference between Hawaii and California is in the rights of each as a political entity. In respect to political rights Hawaii and the Philippines are on a par; as regards individual rights Hawaii and California are on a par. Such, in general, is the law of the Constitution as applied to American territories.

The real relation.—But while there is a great difference between the legal status of Hawaii and California as political units in the American empire, the fact is that an ordinary layman could be in Hawaii for a long time without being made aware of the nature of the difference. The federal government performs in Hawaii only those services which it performs on the mainland. These include the transportation of mail, inspection of immigrants, collection of revenue, and the like. While Washington has the legal power to interfere in territorial administration, it seldom does so. The Interstate Commerce Commission controls the railroads of the Islands, which are unimportant; certain laws enfranchising public utilities have to have direct Congressional approval; but aside from this, there is almost complete local autonomy in the everyday administration of the government.

Hawaii has been embarrassed from time to time in

not being recognized as an incorporated territory. Because the Islands were annexed at the same time as the Philippines and Porto Rico, there has been a notion abroad that Hawaii came in under the same terms. Hawaii found herself excluded from the general appropriation bills passed by Congress covering "the United States," until by gradual enactment the territory was brought within them. Even now federal government publications concerning Hawaii are listed under the title "Insular Possessions," which is, of course, inaccurate. By and large, the relations of Hawaii to the nation have been most cordial.

The two official points of contact between the territorial and the national governments are through the Hawaiian delegate to Congress and the governor, who is responsible to the Secretary of the Interior. In chapter vii we shall have occasion to observe the governor in action. The delegate, like those of other territories, is elected every two years, sits in the House of Representatives, but has no vote. His chief task is to make himself popular and to exercise personal influence. Admirably suited to this task was Prince Jonah Kuhio Kalanianaole, who represented Hawaii in Congress from 1902 to 1922. A Hawaiian, prince of the blood, a cultured gentleman, an excellent speaker, Prince Kuhio, or Prince Cupid as his white friends called him from the contour of his physique, made the ideal representative.

BIBLIOGRAPHY

The best brief discussion of these constitutional problems is in Charles K. Burdick, *The Law of the American Constitution* (G. P. Putnam's Sons, 1922), chapter x. A more extended summary, together with an excellent collection of case references, is

in W. W. Willoughby, *The Constitutional Law of the United States* (Baker, Voorhis & Company, New York, 1910), chapters xii–xxxi. There is a splendid essay, with references, in Ruling Case Law, xxvi. Numerous magazine articles were published at the time of the discussion of the insular cases, the most useful of which, I think, are L. S. Rowe, "The Supreme Court and Insular Possessions," *Annals of the American Academy,* XVIII (September 1901), 226–250; J. W. Burgess, "Decisions in the Insular Cases," *Political Science Quarterly,* XVI (September 1901), 486–504, J. W. Garner, "The Right of Trial by Jury in Dependencies," *American Law Review,* XL, 1; and Harry Pratt Judson, "The Constitution and the Territories," *Review of Reviews,* XXI (April 1900), 453. In *American Law Review,* LX, 801, is a recent article on "The Evolution of the Doctrine of Territorial Incorporation," by Fredrick R. Coudert.

CHAPTER IV

THE PLAN OF GOVERNMENT

A problem to be solved.—The American territorial plan of government was devised for regions under the sovereignty of the United States to which Congress felt itself compelled to allow a measure of self-government, but to which it was unwilling at once to grant full membership in the Union. Originally the status of territory was regarded as a sort of governmental adolescence, from which, with increasing population, the district would eventually grow into adult statehood. When a territory has acquired about sixty thousand people, it has usually been regarded as of age. Every state west of the Alleghenies, except Texas and California, passed through this stage of development. Even Alaska has been expected eventually to become a state.

Hawaii was made a territory for a different reason. With ninety per cent of the people in the archipelago of other than white complexion, Congress did not feel justified in allowing the Islands to become a state, although statehood for them had been urged. Then, too, Hawaiian voters were in a majority, and if the Islands were given complete local autonomy federal officials were afraid that the evils of the monarchy would reappear in new form. Yet it has always been American policy to confer upon each territory the largest feasible measure of self-government. That the people of the Islands were capable of governing themselves had been demonstrated by Hawaii's existence as a dignified, independent nation for a hundred years. To guarantee to Washington an adequate check over local affairs in case things should go awry, and

yet to grant to the people of Hawaii that autonomy to which they were justly entitled, was the dilemma which in 1900 confronted the makers of the Hawaiian territorial government. Peculiarly enough, they found a satisfactory solution to the difficulty in a plan strikingly similar to the traditional type of American territorial organization.

A commission to draft an organic act was provided for in the resolution of annexation. President McKinley appointed five men of marked ability. He chose two representatives of the Islands. One was Sanford B. Dole, leader of the revolution, President of the Republic, and first governor of the Islands, and the other was Walter F. Frear, subsequently governor of the territory and chief justice of its supreme court. From the Senate came S. M. Cullom, of Illinois, who had become famous for his report in 1886 on national regulation of railroads, and J. T. Morgan, the only Democrat on the Commission, who was for many years on the Foreign Relations Committee and who had been a student of insular affairs and a prominent advocate of independence for Cuba. The fifth member of the committee was Representative R. R. Hitt, who had served a number of terms in Congress after a distinguished career in the diplomatic service.

The commission recommended to Congress a plan of territorial government, a number of the provisions of which can be traced back directly to the Ordinance of 1787. Their report was adopted with very few changes, and the resulting government of Hawaii has continued substantially the same to the present time.

The solution.—The plan provided that the executive branch of the territorial government shall be responsible to Washington. The governor and the secretary of Ha-

waii are appointed by the President with the consent of the Senate. They serve for four years, though they can be removed by the President. The Hawaiian Organic Act[1] also set up twelve executive departments: attorney-general, treasurer, auditor, superintendent of public instruction, surveyor, high sheriff, superintendent of public works, commissioner of public lands, commission of agriculture and forestry, board of health, board of commissioners of public instruction, boards of prison inspectors. These officers were made appointive by the governor with the consent of the territorial senate, and removable by the governor and senate. Legislative acts have added to this initial framework until there are now eighty-five separate branches in the territorial government. All of these are named by the governor and most of them with the consent of the senate, although under the Organic Act no requirement was laid down as to how offices subsequently created were to be filled. The Act does say that the twelve offices mentioned in it are to be filled by the governor and senate, "and any other boards of public character that may be created by law." It says nothing about single executive officers.

The governor, under the Organic Act, has a veto over acts of the legislature, and certain peculiar pecuniary powers about which we shall not trouble ourselves here.

The judiciary of the territory is also responsible to the federal government. A supreme court consisting of one chief justice and two associate justices was established by the Organic Act; likewise a system of circuit courts,

[1] 31 United States Statutes at Large 141, clause 339. The Act is also to be found, as amended to date and with notes, in Revised Laws of 1925, pp. 61–111. Without the notes, it is reproduced as Appendix D of this volume, pp. 235 ff.

the number of which was left to the legislature to determine. All the judges provided for were to be appointed by the President with the consent of the Senate for four years. In 1929 there are seven circuit judges. The Organic Act authorized the legislature to provide inferior courts, and thirty-six district courts have been established, magistrates of which are chosen by the chief justice of the territorial supreme court. The functions of the several courts might be inferred from their names. The district magistrates act as police judges. The circuit courts are the great courts of first instance. The work of the supreme court is largely appellate.

With the executive and judiciary made accountable to the national administration, the third branch of territorial government, the legislature, was given to the people of Hawaii. The legislature meets biennially and consists of two houses, called senate and house of representatives. The senate has fifteen members, each serving for four years. It is renewed seven at one biennial election and eight at the next. The house of representatives numbers just twice the membership of the senate and is chosen anew every two years.

These three branches of government together perform about the same functions as the corresponding branches of the state governments. There is a federal district court sitting in Honolulu which has the jurisdiction of an ordinary federal district court plus some functions of a federal circuit court. Appeals may be taken to the United States Circuit Court of the Ninth District, sitting in San Francisco, and to the United States Supreme Court.

While the territorial government in Hawaii is almost identical with those of previous territories, local government has developed along lines typically Hawaiian. The

problem of local government was left untouched by the Organic Act, except for further authorizing the legislature to create "counties and towns and city municipalities." There had been no local government under the later monarchy, and, though the king appointed the governors of the various islands, they ruled only in the name of the king and during his pleasure. Centralization was heightened under the Republic and was continued after annexation. Every detail of government was controlled from the capital. The attorney-general controlled the police in Hilo on Hawaii and in Lihue on Kauai as well as in Honolulu. W. F. Willoughby declared:

> If it was desired to open a street or construct a sewer in any city or town, no matter what its importance, approval had first to be obtained from the authorities in Honolulu, often hundreds of miles distant by sea.[2]

This lack of local self-government caused much trouble and the Senate Committee on Pacific Islands and Porto Rico[3] strongly condemned the system. In 1903 the territorial legislature passed an act providing for a system of county government, but the law was declared unconstitutional (that is, contrary to the Organic Act) on a technicality.[4] Another act was passed in 1905 which, as amended in 1907, provides for the present plan of local self-government within the Islands.

Local government.—Hawaii Territory is divided into four counties and one city-and-county. First, there is the county of Kalawao, which includes the very small penin-

[2] W. F. Willoughby, *Territories and Dependencies of the United States* (The Century Company, New York, 1905), p. 68.

[3] *Report,* January 1, 1903.

[4] *Castle* v. *Secretary of the Territory,* 16 Hawaii 777.

sula on the north side of Molokai set aside for the leper settlement. This, being governed entirely by the territorial board of health, is not a county at all, in the popular sense of the term, and will be discussed in connection with the leper work in the Islands. The county of Hawaii includes only the island of Hawaii. Maui County is composed of the islands of Maui, Lanai, Kahoolawe, and that part of Molokai which is not in the leper settlement. The islands of Kauai and Niihau are the county of Kauai. The three counties of Hawaii, Maui, and Kauai also take in all the islands within three nautical miles of the main islands named. Finally, there is the city-and-county of Honolulu, which includes the island of Oahu and all the islands not contained within the boundaries of the three counties. As the jurisdiction of the territory covers quite a geographical area, Honolulu extends twelve hundred miles west to the Ocean Islands and eight hundred miles south to Palmyra, and includes the islands of Midway, Molokini, Lehua, Kaula, Nihoa, Necker, Laysan, Gardiner, Lisiansky, and French Frigate Shoal, all of minor importance. Aside from Midway, on which are a few employees of the Commercial Pacific Cable Company about whom the city-and-county government does not bother, none of the islands outside of Oahu are populated at all. Thus, while theoretically the city-and-county of Honolulu is very large, actually its governmental problems are concerned only with the island of Oahu, and chiefly with the city of Honolulu.

The governments of the three counties are quite similar; that of Honolulu city-and-county is distinct. Hawaii, Maui, and Kauai are each governed by a board of supervisors, five in number on both Maui and Kauai and seven on Hawaii. Members of the boards are popularly

elected. They serve for two years. In general, the boards have ordinance power and authority to raise and spend money. The executive head of the county administration in each case is the chairman of the board of supervisors. On Maui and Hawaii this officer is specially chosen by the people, but on Kauai the board elects its own chairman. These functionaries, having very little actual executive authority, spend most of their time carrying out the wishes of the board. Neither the board members nor the board chairman are full-time officers.

There are five other elective officials in each county: attorney, treasurer, auditor, sheriff, and clerk, each performing the duties usual to his office. They are full-time officials. All the offices mentioned thus far are provided for by territorial law. Other departments have been added from time to time by the counties themselves. Thus, an engineer is to be found in all three, and a professional fire chief in both Maui and Hawaii.

The Honolulu government has more of the appearance of a municipality. It, too, is directed by a board of supervisors, seven in number, elected biennially. The head of the government is a mayor, who presides over the meetings of the board though he has no vote. He has a veto over the acts of the supervisors, also certain appointive powers subject to supervisorial confirmation. In Honolulu there are the same five elective executive officers mentioned in connection with the counties; and these, as well as the mayor, are supposed to spend their entire time in city business. Many administrative departments have been established by the Honolulu government itself, the most important ones headed by the fire chief, the chief engineer of public works, and the superintendent of electric lights. In general, while the problems of the three counties are

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distinctly rural, those of Honolulu are such as appear in the average American city.

Counties in Hawaii are more exalted than such units in mainland United States. They are the only agencies of local government. There are no organized cities and towns within them. They have, therefore, the combined functions of county and city government. They make ordinances governing municipal affairs, such as regulating the speed of automobiles and controlling traffic. They handle nearly all construction of highways. The territory has little to do with roads, since the counties are separate islands and all roads must, of course, begin and end within the county. The counties perform nearly all duties of protection through police and fire departments and building inspection. Health work is divided, the territory handling more of its share than most states do. All forms of public service, such as water supply, sewage disposal, and street lighting, are handled through the counties and the city-and-county. But the entire educational system of the territory is in the hands of the central government. Most counties on the mainland serve as administrative units for the state governments, aiding in the collection of taxes, the administration of justice, and the performance of similar functions; this is not true in Hawaii. The obvious reason is that long before the counties and the city-and-county were in existence the territory had its own complete staff.

There is not the same mosaic of local political subdivisions in Hawaii that we find in most American communities. It is not at all unusual to find states divided up into judicial districts, school districts, water districts, mosquito-abatement districts, road districts, park districts, and sanitary districts, none of which coincide, most of which

overlap one another, and all of which involve different tax rates and different administrative problems. In Hawaii the only important local divisions are counties, judicial districts, school districts, election districts, and health-reporting districts.

It will be observed that the people have a much more direct control over counties and city-and-county in Hawaii than they have over the territorial government. They elect directly the legislative branch of both divisions, but, while the executive branch of the territorial government receives its impetus from the national government and is responsible to it, the voters of the Islands elect directly the executive officers in the counties, including the mayor, and indirectly control all the rest of the administration. We shall have occasion to comment further on this difference when we consider in chapter v the politics of the Islands and later in this book the county and city governments.

Methods of election.—The last function of government which needs immediate consideration is the machinery for the conduct of elections. The resolution annexing Hawaii made all the citizens of the Republic, and all persons born in the Islands after annexation, citizens of the United States. The Organic Act requires of all voters that they be citizens, that they be over twenty-one years of age, that they reside in the territory at least one year before they vote, and that they speak and read either English or Hawaiian. Disqualifications include the usual ones of insanity, eviction from the legislature for bribery, and conviction of a crime for which punishment is imprisonment of one year or more.

Registration of voters is in the hands of the county clerks. An applicant must make out an affidavit giving name, residence in the territory, date of birth, occupation,

citizenship, nationality, and physical disabilities; he must swear that he can read and speak English or Hawaiian and that he has no criminal record. The prospective voter is not required to declare his party affiliation. Once on the roll books, a voter's name stays there unless he fails to vote. There are five boards of registration, one for each representative district, to check up on the books of the county clerks and to hear appeals from decisions of those officials as to the status of the voters. Each board is composed of three members appointed by the governor and senate.

In even-numbered years elections are held for members of the legislature, delegate to Congress, and Honolulu city officials. The three counties choose their officers in odd-numbered years. Officers-elect assume their duties on the January 2 following their election, except the delegate, whose term commences on March 4.

Nominations are by direct primary. Names appear on the primary ballot by petition, filed with the secretary of the territory in the case of the delegate to Congress and with the county clerk for other offices. Signers must be voters. Twenty-five names are necessary for delegate, fifteen for all other offices, and a fee of ten dollars is required for each petition. At the primary election, there are separate ballots for delegate to Congress, for representatives in the legislature, for senators, and for county offices, but all the candidates of all the parties for each office, and the non-partisan candidates for nomination as well, appear on the same ballot. People are allowed to mix their votes so that an elector can vote to nominate a Republican for mayor, a Democrat for auditor, and members of both parties for supervisors—all on the same ballot. It is an open primary with a vengeance. That candidate

of each party who receives the greatest number of votes is declared nominated, and any non-partisan candidate who receives twenty per cent of the votes for a given office is also nominated. In the case of county offices, any candidate for nomination who receives a majority of votes cast in the primary is declared elected.

Elections in general are supervised by the secretary of the territory. The governor marks out the precincts. In 1924 and 1926 there were 109 precincts, the number of voters in each varying from 1,167 to 28. In each precinct is one polling-place, its destinies presided over by a board of three inspectors appointed by the governor. This in brief is the Hawaiian election system.

In this chapter we have seen the plan of government as designed by the architects of the territorial government and supplemented by the local draughtsmen within the Islands. We have noted the rules of law which govern the political machinery. With the running of that machinery, and its accomplishments, the next few chapters will be concerned.

BIBLIOGRAPHY

A fairly detailed description of American territorial policies will be found in Vedasto Jose Samonte, *The American System of Colonial Administration* (State University of Iowa, Iowa City, 1925). Chapters on the subject will be found in all the standard textbooks on American government. They are all written at secondhand and are bounded by the information which could be secured in statutes and decisions. To supplement the chapter in this book, see the Organic Act (Appendix, pp. 235 ff., below) and Revised Laws of Hawaii, 1925, §§ 1575–1891 on local government, and §§ 32–141 on elections.

CHAPTER V

RACES AND THE GOVERNMENT

Racial politics.—One fact constantly to be borne in mind in considering the actual government of Hawaii is that among the people who constitute the electorate of the territory, among the people who are employed in government work, and among the people of the Islands who are controlled and served by the government are to be found representatives, in appreciable numbers, of such widely differing races as the Hawaiian, the Japanese, the Portuguese, the Porto Rican, the Filipino, the North-European, and the Chinese. Such a condition cannot but have widespread influence on the affairs of the Islands. Much has been written about the social and economic relations of the races, but there has been singularly little curiosity as to their political relations. It is with this last field that we are concerned in the present chapter. We are going to try to discover whether or not the people in Hawaii vote according to race, which races enjoy the greatest political power, and which races are represented in public administration.

Anyone who writes about the peoples of Hawaii is embarrassed by the lack of an accurate vocabulary on the subject. For example, there is one well-defined group drawn largely from continental United States, plus a few English and Scotch. When speaking of this group, one finds it takes too long to enumerate its component elements. The vast majority of the group is American; but if we call it "American," other races object, because all citizens of the Islands regardless of race are Americans. If we refer to them as Caucasians, we fail to distinguish them

from the Portuguese. For the purpose of this book we shall accordingly use the term "haole," which is the word most commonly applied to them in Hawaii. "Haole" is a word unknown to any census classification. It is not defined in any standard dictionary. But any Islander knows to whom it refers. It represents a distinct and recognized group. By haoles, then, we mean the whites of North-European complexion, most of whom have come from the mainland United States.

Another factor which makes more difficult our political study of the races is that there is a great number of people of mixed blood in the Islands. The territorial estimate for 1928 shows that about nine per cent of the people are of mixed blood—Caucasian-Hawaiian and Asiatic-Hawaiian. If we took into account all of the racial distinctions among individuals, we would get into a labyrinth of fractions. Fortunately it is not necessary to go into such detail. There is Hawaiian blood in nearly all the mixtures, and for political purposes anyone who is part-Hawaiian is usually treated as if he were a Hawaiian. In the following analysis, therefore, part-Hawaiians are treated as full-blooded Hawaiians.

Many conditions go to make Hawaii an almost ideal political laboratory for racial experiment. The population is numerous enough to furnish true averages, and yet the Islands are so small as to be easily observable. There is no feeling of political antagonism against any one race, as in the case of the negroes in the South. The disparity in economic status is not so marked as to vitiate comparisons. Relative harmony prevails among the different peoples. All men begin working with a fairly equal start. On the other hand, there are certain qualifying circumstances which prevent strict comparison of the races. All Chinese

and Japanese who came to the Islands were ineligible to citizenship. Before these two groups could participate in politics they had to wait for a generation born in Hawaii to become of voting age. In 1920 only one out of every ten adult Chinese was a citizen, and of the Japanese only one out of every twenty-five. Therefore, those races have not had the same opportunity in government as the Hawaiians and the haoles. Again, some races have lived longer in the Islands and have secured a better foothold. Here the Hawaiians are at an advantage. The haoles are next, and they have suffered little handicap because it is they who have been the dominant race. As for the rest, Dr. Romanzo Adams, of the University of Hawaii, estimates that the average length of residence of the Chinese in Hawaii in 1920 was thirty-one years, of the Portuguese twenty-nine years, of the Porto Ricans nineteen years, of the Japanese fifteen years, of the Koreans fifteen years, of the Spanish nine years, and of the Filipinos four years.[1] As a consequence, although the Filipinos are the second largest group in the Islands, they can hardly be expected to participate equally in government.

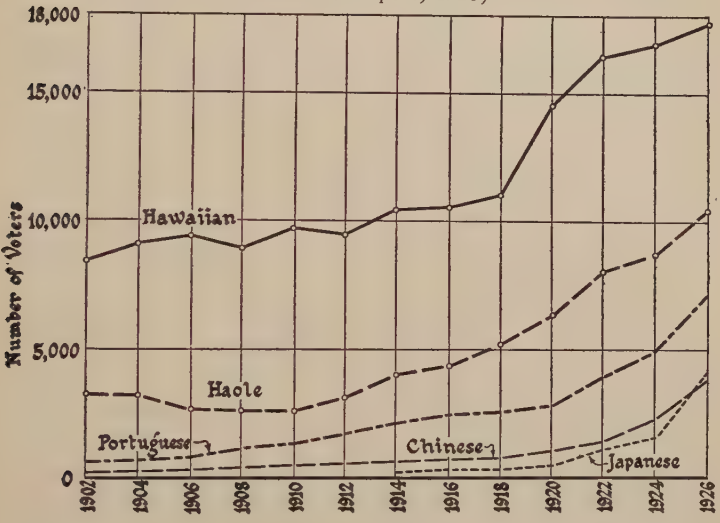
Racial votes.—Our most obvious inquiry concerns the political strength of the various groups as compared to their numerical strength. Chart I, on the opposite page, is a graphic illustration of the number of registered voters by each race from 1902 to 1926. One glance will show that the dominant political race has been the Hawaiian. It shows also the recent increase in Oriental voters, and the fact that in 1926 the number of Japanese for the first time exceeded the number of Chinese registered voters. When we look at Chart II on page 68, we discover that,

[1] Romanzo Adams, *The Peoples of Hawaii* (Institute of Pacific Relations, Honolulu, 1925), p. 13.

whereas the Hawaiians have been the most numerous among the voters, their comparative importance has been steadily decreasing, until by 1924 they were for the first time not in an absolute majority. This long predominance of the Hawaiian race to a certain extent prevents our

CHART I

VOTERS BY RACES, TERRITORY OF HAWAII, 1902–1926 (FROM *Governor's Report*, 1926)



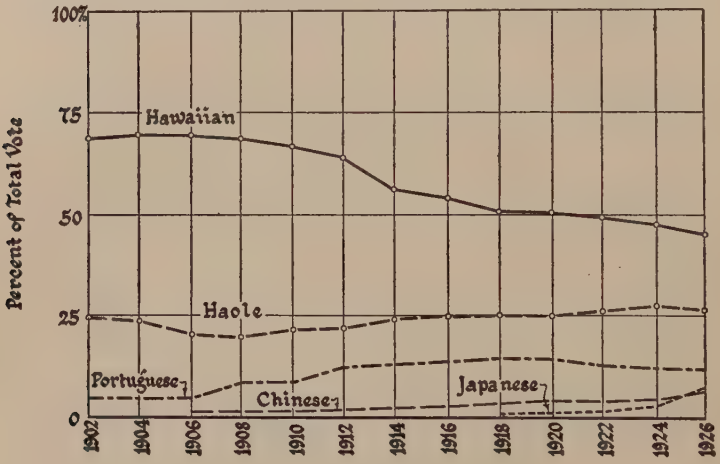
figures from having the interest they would have if the races were more nearly equal in strength. The relative influence of the haoles and the Portuguese has, we see, been nearly constant, while the voters of Oriental ancestry have been steadily increasing.

Now what percentage of each race entitled to register does actually register to vote? That question is not an easy one to answer, for there are many factors involved.

Some people fail to register because of illness, others because they have not lived in a precinct long enough to fulfill residence requirements, and still others because they do not care to vote. Any estimate is, after all, just an

CHART II

PERCENTAGE OF VOTERS BY RACES, TERRITORY OF HAWAII, 1902–1924



estimate. Dr. Adams ventures the opinion that, of the total number of each race entitled to go to the polls, the following percentages did register to vote in 1922:[2]

	PERCENTAGE REGISTERED	
	Men	Women
Hawaiian and part-Hawaiian	87	75
Portuguese	61	24
"Other Caucasian"	74	59
Chinese	52	14
Japanese	73	7

[2] *Op. cit.*, p. 16. In the table "Other Caucasian" refers to the group we are calling "haoles."

A great many whites in the Islands are not included in the estimate of "Other Caucasian" because they are members of the army and navy colonies and, while they are citizens of the United States, they are not citizens of Hawaii and are therefore not entitled to vote. To understand why so few Orientals who can register do so, it is necessary to observe the registration policy of election officials in the territory. Up to 1922 it was the custom to require documentary proof of Hawaiian birth before any person of Oriental ancestry was allowed to vote. It was this necessity which was largely influential in causing the territory to issue birth certificates, which we shall discuss in chapter vii. The expense of these documents was so high as to be almost prohibitive, and as a consequence many men, and more women, of the Oriental races were deterred from voting. But beginning with 1922 the county clerks have been more liberal. At present the Honolulu clerk allows Orientals to register on presentation of a statement from the board of health that a certain child was born, at a certain place, on a certain date, but gives no indication that the statement refers to the applicant. As time goes on and Chinese and Japanese voters increase in number, clerks are likely to be more and more lenient; because when these races become powerful political factors it will be well not to offend them by being too inquisitive.

Another way to discern the relative political influence of the different races is to observe what proportion of the total race population is registered to vote. We have just discovered the ratios of those registering to those entitled to register; this will show us which races have the greatest influence in comparison with their total number. The following table shows the percentages of each race which have been registered since 1916:

	1916	1918	1920	1922	1924	1926
Hawaiian	27.52	27.98	35.08	41.04	34.73	39.94
Haole	24.51	14.63	30.60	22.89	24.14	25.57
Portuguese	10.98	11.73	11.45	16.05	19.42	22.30
Chinese	3.40	4.29	4.85	6.45	8.22	11.59
Japanese	.18	.27	.60	.96	1.36	2.38

From this we see how insignificant has been the political power of the Chinese and the Japanese in comparison with their numbers. The sharp increase among the Hawaiians beginning with 1920 is accounted for by the amendment to the federal Constitution allowing women to vote. There is no such increase among the haoles, because just at that time great numbers of army and navy families were sent into Hawaii. The total increase in haole population affects the increase in voters, leaving the percentage of voters to population about the same.

All of our figures above have dealt with those who have registered to vote, not those who have actually voted. It is not possible to detect how many of each race actually took the trouble to go to the polls, but the records show that in 1924 eighty-five per cent of those who registered voted for delegate to Congress, and in 1926 eighty-six per cent; and we have no reason to suppose that participation among registered voters was any higher in one race than in another.

So far we have proceeded upon the idea that each race is more or less of a voting unit. Such is the popular assumption. Of course, in view of the overwhelming preponderance of Hawaiian voters, the mere fact that many haoles and some Chinese have been chosen for public office would seem to indicate that the voters are not always guided by complexion in casting their ballots. There is

no way to be certain as to how many of each race voted for a given candidate. But we may approximate certainty on this point by indirection. The precincts in the territory from 1902 to 1926 may be classified in four groups: predominantly Hawaiian, predominantly Portuguese, predominantly haole, and doubtful precincts in which no race has a majority. None has ever been predominantly Oriental. The surface figures of this compilation show the overwhelming Hawaiian strength. There have been 888 Hawaiian precincts, 65 haole precincts, 15 Portuguese precincts, and 243 doubtful ones. From 1916 on, the number of those doubtful has increased rapidly.

Now do the precincts of the same race tend to vote alike? The classical example to prove that electors do vote according to race is the long struggle (1908–1920) between Prince Kuhio (Hawaiian) and L. L. McCandless (haole) for election as delegate to Congress; and the continued victory of the Prince is said to have been due to the fact that there were not enough white votes to put McCandless over and that Kuhio got all the Hawaiian suffrages. But that is not true. It is well known that Kuhio was backed by the haole interests, while McCandless was the Democratic opposition candidate. It is true, of course, that Kuhio carried more Hawaiian precincts than his opponent; he would have to do so in order to be elected. He also carried the white precincts; and he carried them by such a ratio that six precincts went to him for every one to McCandless, while among the Hawaiian precincts Kuhio's advantage was only three to one. That fact alone would tend to show that Hawaiian and haole votes are not necessarily cast by race.

In 1922 the Prince died and a special election was called to choose his successor. Two haoles and one Ha-

waiian ran for the office. The two haoles swamped the Hawaiian, even in the precincts of his own people. One haole beat him in the native districts by a ratio of twenty precincts to one, and the other by seven to one. In the regular 1922 election two Hawaiians contested the office of delegate, and the Hawaiian vote was very evenly divided. In 1924 the winner of the 1922 contest entered the lists against a haole who was from a well-known and popular family. Indications are that the Hawaiian had a much easier time among his own people as against a haole than as against one of his own race; for he defeated his opponent two to one in the Hawaiian precincts. In 1926 the winner of the two prior elections fought against a candidate who was only part-Hawaiian and who was closely associated with the haoles. The former carried the Hawaiian precincts by a ratio of twenty-nine to twenty-six. The haole candidate carried all the haole and Portuguese precincts and acquired a lead of two to one in the doubtful precincts.

Racial complexion is influential but not conclusive. One thing can be demonstrated, however, and that is that the haoles are Republicans. During the twenty-four-year period, haole precincts went to the Grand Old Party at a ratio of eight to one.

Nothing has been said about the Portuguese, and for a reason. Of the fifteen Portuguese precincts during the period, nine went for the haole candidate and six for the Hawaiian; seven went Democratic and eight Republican. The Portuguese seem about evenly divided.

Of considerably more interest is whether the Chinese and the Japanese vote by race. Up to 1926 only three Orientals have run in the final election for territorial office, and all three have been Chinese. In each case the candidate

was so warmly supported by the Democratic party that the total votes cast for the candidates were in one case six times the registered Chinese vote in the district, in another case four times, and in the third case three times. More evidence might be expected where Chinese run in the primaries on their own initiative. In the 1926 Honolulu election four Chinese sought to be nominated, one Republican for auditor, two Democrats for the board of supervisors, and one Democrat for the lower house of the legislature. Examining the records of the votes they received leads us to the conclusion that their support did not definitely come from the members of their own race. In a great number of districts their votes were decidedly less than the number of Chinese registered there; while in several other districts they ran far above the Chinese vote.

The same is not true of the Japanese. So far no member of that race has even been nominated by either of the two parties; but in 1922 a Japanese ran on Kauai for the Republican nomination for the house of representatives. There is an almost exact correlation between the number of votes he received in each precinct and the number of Japanese registered there. Of course, this is only one isolated instance and no definite conclusion can be safely drawn from it.

Now we have examined the political strength of each race. We have seen that the Hawaiians have been dominant since the beginning of the territory, but in a steadily decreasing ratio. We have seen the recent rise in strength in the Oriental races. Our investigation has shown that among the Hawaiians and the haoles candidates tend to attract votes of their own race but they are never safe in depending absolutely on racial affiliation for their election. Among the Chinese there seems to be no voting according

to race. In the one case where a Japanese ran for office, his entire strength seemed to come from Japanese votes.

Let us now turn our attention to another aspect of this race problem: the number of each race employed in public service.

Racial representation in office.—During the spring of 1926 a survey was made of all the public employees in Hawaii, federal, territorial, and local.[3] Questionnaires were sent asking each executive to enumerate the number of members of the different races in his department according to four grades: (1) elective officers, (2) appointive executives, (3) clerks and other governmental employees, and (4) laborers. Written reports were received from 165 different officers, and calculations altogether cover 6,358 employees in the territorial, federal, and county services.[4]

Hawaiians led among the employees, and haoles were second. The totals are:

Hawaiians	2,835
Haoles	1,860
Portuguese	780
Chinese	397
Japanese	357
Filipinos	32
Porto Ricans	28
Others	69
Total	6,358

[3] Some of the officers were well enough known to me for me to classify their employees myself; others were classified for me by Dr. K. C. Leebrick, of the University of Hawaii. The questionnaires were sent to all the larger departments and to those not personally known to either of us.

[4] Only one official declined to furnish the information; hence the 208 employees in the office of the then city engineer of Honolulu are not included in this summary.

An act passed in 1925 requires all employees of the territory and counties to be citizens.[5] This cuts down the number of Chinese and Japanese employed by the public.

There was a striking correspondence between the representation of each race among governmental employees and the voting strength of the race, as may be seen by the following table giving percentages by racial groups:

	Hawaiian	Portuguese	Haole	Chinese	Japanese	Others
Voting (1924).....	48	15	26	6	5	0
Employees (1925)..	44	12	30	6	5	3

The Portuguese and the Hawaiians were slightly under-represented among employees, and the haoles were slightly over-represented. This tends to demonstrate that political appointments are distributed according to the strengths of the racial vote in the constituencies.

Among elective officers, the Hawaiians took a distinct lead (55 per cent), the haoles were also strong (30 per cent), the Portuguese ran a poor third (13 per cent), the Chinese were practically not in the running (2 per cent), and there were no Japanese elective officers. This displays the result of the powerful Hawaiian vote. The haoles, it will be seen, were decidedly stronger among the elective offices than within the electorate. This was probably due to their economic power and to their undoubted position of leadership in the Islands.

Among the appointive executives, such as department heads and bureau chiefs, Hawaiians and haoles shared honors equally (46 per cent). There were 339 executives, and of these 156 were haoles and 155 Hawaiians; Portuguese constituted seven per cent and Chinese one per cent.

[5] Act 231, Session Laws, 1925.

There were forty-two judges in the Islands, including district magistrates. Twenty-three of these were Hawaiians, seventeen were haoles, and two were Portuguese. The supreme court consisted of two haoles and one Portuguese. The circuit court was made up of five haoles, two Hawaiians, and one Portuguese.

Certain offices, such as the instructorships in the University of Hawaii and some of the employees of the board of agriculture and forestry, were separately calculated as requiring technical training. Here the haoles led the Hawaiians two to one; the Portuguese fell away down to tie with the Chinese, each furnishing but four per cent of the technical men in public employ.

But it is in the group called clerks and other governmental employees that the great bulk of political patronage lies. Here the Hawaiians were distinctly in the lead (55 per cent), with the haoles next (20 per cent), then Portuguese (12 per cent), Chinese (7 per cent), Japanese (4 per cent), and others (2 per cent). The Hawaiians had exactly the same percentage in this class as among elective officials; Portuguese were about the same; but the haoles did not get the patronage which their elective strength led us to expect. The Chinese, the Japanese, and the others are accounted for, not by political influence, but by the fact that clerical work is something for which those races seem particularly adapted.

Because one-third of the total number of governmental employees in the territory are in the department of public instruction, that department has been calculated separately. Among the regular teachers, the haoles were the most numerous (45 per cent); the Hawaiians are next but totaling only about half as many (26 per cent); then follow the Chinese (11 per cent), the Portuguese (7 per

cent), the Japanese (7 per cent), and others (2 per cent). Several notable things appear here. The Chinese were ahead of the Portuguese. The Chinese rank higher among the teachers than in any other class, and the Japanese higher than in any class except laborers. Of the supervisors and principals, ninety-one per cent were haoles, eight per cent Hawaiians, and one per cent Japanese.

Another grade of public servant was deduced from the reports received, and that is the unpaid boards and commissions in territorial and county service. This class includes such institutions as the board of health, the fair commission, the trustees of the University of Hawaii, and other similar bodies. It is interesting to note that within this group eighty per cent were haoles, while only twelve per cent were Hawaiians and eight per cent were Portuguese. There were practically no Chinese or Japanese. It is clear that the unpaid offices do not attract the politician race of the Islands—the Hawaiian.

Hawaiians were quite in the majority within the laboring class (62 per cent). The haoles were very low (4 per cent). The Portuguese were rather high (20 per cent), the Japanese furnished eight per cent, the Chinese four per cent, and the Filipinos and the Porto Ricans one per cent each.

Now from these facts we can draw certain general conclusions as to the types of work in government service in which each race predominates:

1. The Hawaiians have their greatest preponderance among the laboring class; they are in a majority in elective offices and among general government employees; and they are about equal to the haoles in the class of appointive executives; but they are scarce among technical employees and unpaid boards. As it has worked out so far,

the Hawaiians are the politicians; officials of their own race and others favor them for most governmental posts.

2. The haoles take highest rank among school supervisors, and, next to that, among the unpaid boards. The race stands high among teachers and technical employees; and, calculated on the basis of percentage of total voters, the haoles have slightly more than their share of elective offices, but they furnish little or none of the labor supply.

3. Portuguese have a majority in no class. Their highest ratio is among laborers, their lowest among technical employees; for the remainder, from seven to thirteen per cent are Portuguese. Obviously Portuguese candidates for office and applicants for positions have not had the electoral backing of the Hawaiians, nor the economic strength and position of leadership of the haoles; consequently their place in governmental affairs has not been conspicuous.

4. Chinese are most numerous among teachers, though some are to be found among general employees and laborers. Doubtless there would be more Orientals in government service if the requirement of citizenship were not exacted.

5. Japanese are highest in the laboring class, though almost as high among teachers, but are not found in appreciable numbers anywhere else.

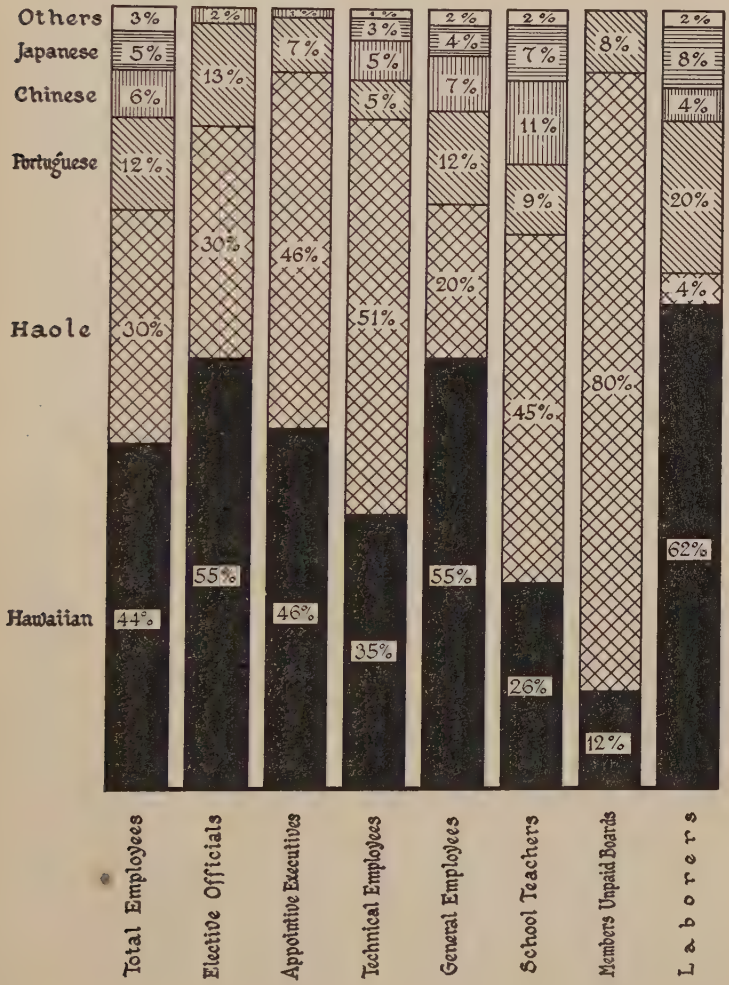
6. Filipinos and Porto Ricans are about equal in number among laborers, but hold no other positions in the government.

Chart III is a graphic summary of these conclusions.

Another interesting comparison can be drawn as to the number of each race in county, territorial, and federal service. The fact is that the Hawaiians furnish sixty-five per cent of the total employees in county governments,

CHART III

PERCENTAGE OF EMPLOYEES BY RACE, TERRITORY OF HAWAII, 1925



thirty-seven per cent in territorial government, and twenty-seven per cent in federal government services. The haoles stand about equal in territorial and federal work, but fall down in county service; the Portuguese are highest in county governments; and the Chinese and Japanese are highest in federal work and about equal in territorial and county service. Counties are closer to the voters than the territory is; and the territory is closer than the federal service. In the counties, where the supervisors and five administrative officers are elected by the people, the Hawaiians are in a decided majority. In the territory, where only the legislature is popularly elected, political considerations are less pressing and the Hawaiians lose their majority. In the federal service, which has no local political connections at all, the Hawaiians fall to but one-fourth participation. From this we can conclude that the Hawaiian has been the political race.

At the outset of this chapter we set ourselves the task of discovering three things: Do men and women vote according to race? Which race has the highest political standing? What races are represented in public service? We are now in a position to give our answers. The motive of racial affinity is an influential but not the conclusive consideration in politics. So far, the Hawaiian race has been the dominant one, with the haoles second, the Portuguese third, and the Chinese and the Japanese a poor fourth and fifth. We find that among governmental officers and employees the racial classification coincides closely with the racial classification of the voters, and the governments which are closest to the voters reflect most clearly the predominance of the Hawaiian; while the governments less close to the voters show the Hawaiian race in a minority. It is clear that employees are

chosen according to politics, and that politics proceeds to a considerable extent according to race. The great variety of different races is what introduces such a unique element into the government of Hawaii.

BIBLIOGRAPHY

I know of no published discussion on this subject. Statistics can be found in Romanzo Adams, *The People of Hawaii* (Institute of Pacific Relations, Honolulu, 1925), and in the various *Annual Reports of the Governor of Hawaii.*

CHAPTER VI

PARTIES AND ELECTIONS

Political parties.—There is a very great difference between the laws of a government and the life of a government. If we would see more than the gaunt skeletons of institutions we must often wander far from the cloistered quietude of the library. We must get acquainted with people, discover what they want of their government, how they act to obtain what they want, why they elect this man to public office and reject that one, and whose advice they follow. We call this pursuit the study of politics. And it would seem logical at this point to examine the methods whereby the people of Hawaii try to make their influence felt, before we go on to speak in detail of the various agencies of governmental control.

Politics is the life of a government. Politics in Hawaii finds expression in the activities of the Democratic and the Republican parties. Of these, the latter has long been the dominant group. Republicans have had an absolute majority in both houses of the legislature during every session but the first. From 1902 to 1922 the delegate to Congress was a Republican, and another member of that party was elected in 1926. In June 1926 the Republicans in county elective offices outnumbered the Democrats by eight to one.

The nucleus of the Republican party has always been the sugar planters. It was this group which furnished much of the impetus to the revolution. They favored annexation to the United States because, among other reasons, they desired to sell their product in the tariff-protected market of the United States. Naturally they

became Republicans. They drew after them into the party all those interested in or dependent upon sugar production. This included most of the people in Hawaii. With its later expansion, the sugar industry has relied more and more upon the tariff, until now it is reliably estimated that if import duties on sugar were abolished at least two-thirds of the Hawaiian plantations would be out of business.

Hawaiian Republicans are usually separable into two groups, one headed by the larger planters, who have the most money, and the other headed by the smaller planters, who probably stand slightly higher in the affections of the voters. Contributing heavily to the national campaign funds of their party, the Republicans in the Islands have considerable influence in Washington when the national administration is Republican.

The first opposition to the local Republican group was called the Home Rule Party. Modeled after a similar organization in Ireland, it took for its motto, "Hawaii for the Hawaiians." In making their initial bow, in 1902, the Home Rulers were very successful and won the delegateship and a majority in both houses of the legislature. Then the Republicans bestirred themselves. By 1904 the Home Rule party had started on the down grade, and by 1912 it was extinct. Its mantle fell on the Democratic party, newly organized, which first attained prominence in 1909.

The Democratic party draws its strength from four main sources: (1) a great many (mostly Hawaiians) who are opposed to the control of the sugar group; (2) some politicians who see no hope for advancement in the Republican party and have become Democrats for personal reasons; (3) many officeholders who were sent into Hawaii by the Wilson administration, and who stayed and

joined the party there; and (4) not a few Chinese aligned with the party. Democratic leaders, displaying considerable sagacity, have seen that soon the votes of the children of Oriental parentage are going to be important, and consequently they have been kowtowing to Chinese aspirants to office.

If the representatives of the different schools of political belief were to seat themselves according to the system of European legislatures, the big corporation Republicans would probably assume the places of the conservatives, far to the Right. Next would come the smaller Republican planters, the Centrist group, usually in control. On the Left would be found the Democrats.

Aside from the Republican, the Democratic, and the Home Rule parties, there have been no organized political groups of any significance. Once a Socialist candidate appeared, and once a Progressive. The two combined did not receive a thousand votes.

The Democratic and the Republican parties are both carefully organized. Both machines are based on precinct clubs. Both claim to have an organization in every precinct, but the records show that, in the 1926 conventions of the two parties, 103 out of the 109 precincts returned delegates to the Republican convention, while only 37 were organized sufficiently to choose representatives to the Democratic convention. Republican rules provide that only registered voters may join their clubs. Members are required to answer affirmatively two questions: "Are you a Republican? Will you support the principles of the Republican party and abide by its rules?" Meetings are held on the call of the president of the club, or on written request of five members. Each club meets at least during election years, once to nominate officers and representa-

tives of the club and once to elect them. Each precinct is entitled to one member on the county committee, and to one delegate to the convention for each fifty votes, or fraction of fifty, cast for the party candidate for delegate to Congress in the last election.

Democratic clubs are composed of registered voters who will sign a membership card pledging them to loyalty to the party. The clubs choose representatives in the convention and central committee according to the plan followed by their opponents.

The territorial conventions of the two parties meet during the month of July in non-presidential years, and late in the spring in presidential years. Usually the Republicans convene first. In 1926, two hundred seventy-one delegates met at the Republican convention and one hundred sixty-nine at the Democratic. The representatives adopt a platform, choose delegates to the national convention of the party in presidential years, and elect members of the national committee. The Republican party sends two delegates to the national convention, the Democratic party six; each local party group chooses two representatives on its national committee. But the real function of the convention is to make a big noise, to stimulate the workers, and to feel out sentiment for aspiring candidates. It is a joyful occasion with much music, many *leis* (flower wreaths), and good speeches.

The guiding influence in the party organization is the territorial central committee, thirty in number in both parties, which is elected according to the apportionment of the lower house of the legislature. In the Republican party, delegates from each district meet and choose the members of the committee to represent the district. In the Democratic party, the whole convention elects the com-

mittee. The function of this central body is to decide policies for campaigns and recommend applicants for appointment. Republicans have from fifteen to twenty meetings of their committee each year, the Democrats slightly fewer.

In each party active control of the party campaign is in the hands of the executive committee. This committee has ten members in the case of the Republicans and seven in the case of the Democrats. In the Republican party the central committee chooses the executive committee; in the Democratic party the central committee chooses part, and the county committees elect part, of the executive body. In both parties, county committees are composed of one member from each precinct.

Thus the two parties have a very well-planned hierarchy of agencies for government and management. At the top is the executive committee. Next comes the territorial central committee of thirty members. Dominating all is the territorial convention which meets every two years. At the bottom are the county committees and the precinct clubs.

The conduct of campaigns.—This organization of the parties does not constitute mere machinery. It works. Parties are very active in campaigns, and play an important rôle in administration. In the primaries, especially in the case of the Republicans, the party committees arrange all the meetings at which the candidates for nomination speak. Speakers draw lots before each meeting to indicate their places on the program, and the meeting is presided over by an official of the party. A tax is levied on the candidates at the beginning of the campaign to defray the cost of meetings. In the Republican party in 1924 it was one hundred dollars for candidate for dele-

gate to Congress, fifty dollars for senatorial candidates, and twenty-five dollars for aspirants to the lower house. This practice saves money for the candidates, ties them more closely to the party, and tends to minimize intra-party bitterness. When all the candidates for a given office are present, the speeches are likely to be less vitriolic. The Democrats do not follow this policy nearly so vigorously as their opponents do.

After the primary, the campaign is distinctly in the hands of the party committee. The executive committee plans the territorial campaign for delegate and renders whatever assistance it can to the county committees which engineer the drive for membership in the legislature. While it is impossible to know the exact ratio of money spent by the party to that spent by the candidates themselves, the chairman of the Republican central committee in 1924 said that the party probably paid at least seventy-five per cent of the total expense of the campaign that year.

Reports as to campaign expenditure are very inexact. There is a corrupt practices law in Hawaii, but about all that can be said for it is that it exists.[1] Twenty days after the election, candidates and committees working for candidates are supposed to file an itemized statement of expenditures with the secretary of the territory. The things on which campaign money may be legally spent are enumerated in the law as follows: (1) personal expenses of the candidates; (2) expenses of printing and advertising; (3) cost of stationery and postage; (4) expenses of public meetings; (5) rent and supplies for committee rooms, not to exceed one for each polling place; (6) salaries of not more than one clerk and two messengers for

[1] Revised Laws of 1925, §§ 64–65.

each polling place; and (7) salaries of not more than one watcher at each polling place on election day. There is no limit to the amount which may be spent, only a specification of legitimate objects and the requirement of a report.

The act never has been enforced. There are no reports at all from party committees. The only returns which have been made are those for the amounts spent personally by the candidates, and they are so incomplete as to be impossible of belief. From 1914 (when the act went into effect) to 1924, five candidates for delegate to Congress made no report, forty-five candidates for the senate made no report, and ninety-two for the house made no report. The highest expenditure recorded is that of L. L. McCandless, candidate for Congress in 1920, $5,209.80. Prince Kuhio declared that he spent exactly eighty cents in one campaign. The act has been more effectively enforced in recent years, yet seven candidates failed to report in 1924.

Our estimates of campaign expenditures, therefore, are based on the few figures which parties voluntarily allow to leak out. The Republicans claim to have no records, and will make no statements as to probable expense. Mr. John H. Wilson, ex-mayor of Honolulu and a prominent Democrat, has said that his party spent $1,392 in 1924, $1,718 in 1916, and $3,260 in 1922. It is generally thought that the Republicans spend several times as much money as the Democrats. Both parties contribute to national funds during presidential years. The Democratic contribution is about a thousand dollars at each election. The Republicans again refuse to commit themselves, but from their interest in national tariff policies an estimate of about fifteen thousand dollars might not be far wrong.

Campaigns in Hawaii are colorful. They differ from those on the mainland, not so much in their tone as in their methods. Successful candidates, especially for the more important offices, usually try to appeal to two distinct classes of voters: the haoles, who must be convinced mostly through reason, and the Hawaiians and the Portuguese, who will vote for no man unless they like him. For the benefit of the haoles, advertisements are run in newspapers; for the benefit of the rest, parades and meetings are scheduled. Campaigns are not unlike corresponding solicitations in the states, where candidates must have logical argument for some and emotional appeal for others. And often, in both places, the logical appeal is least necessary.

Hawaiian political meetings are similar to those everywhere, but with a little local color. Instead of the town band there is a group of Hawaiian singers. *Leis* are put around the necks of perspiring sitters-on-the-platform. Speeches are usually in English, and they may or may not be translated. Perhaps the reason for this is that there are more epithets applicable to political opponents in the English language than in the Hawaiian. Speakers must, of course, be entertaining. Island spellbinders follow their mainland friends in promising to do almost anything if they are but elected. One candidate for supervisorial office in one of the outlying counties undertook to see to it that the board should buy a cow for each family in the county and give them all as presents. Another agreed to change the calendar in a way to make all legal holidays come on Mondays, so that the people could have longer vacations.

With so many races represented among the voters it would belie all human experience if candidates did not try

to capitalize racial prejudice. And they do, quite often. One candidate for delegate to Congress defeated a white man with the slogan, "Look at the skin and vote for him."[2] During the years that Kuhio was running for Congress, there was frequently a vocal artist with leather lungs somewhere near the polling place on election day to admonish his countrymen, *"Mai poina ka keiki allii,"* which means, "Remember the Prince."

One typical Hawaiian campaign argument is the *luau* or native feast. On the outer islands this is almost a necessity. If the candidate is victorious he must give a *luau* to all those who helped him. One territorial senator informed me that his campaign cost him five hundred dollars. On being pressed as to the objects of his expenditure, he said it was for a *luau* after the election.

Then there must be automobiles for taking voters to the polls. The mere fact that expenditure for this purpose is illegal apparently has nothing to do with the case. There must be Packards and Cadillacs, or else electoral dignity is impaired.

Candidates for public office are entitled to have printed on the ballots Hawaiian names which are equivalents of their proper names. So if a candidate has no Hawaiian name he adopts one. Thus Senator Shingle called himself *Pilihale,* which means "Thatch for Houses." Sometimes the translation must be more liberal. One candidate for delegate to Congress adopted the title *Koa Olioli O Hawaii Nei* ("The Brave Chanter of Hawaii"). Running against him was "The Voice of Love" (*Kaleoaloha*).

[2] This calls to mind that Disraeli, in one of his novels, tells of a political party in England which chose for its campaign cry "Our young Queen and our old institutions." It was an excellent choice, Disraeli explained, for it sounded fine and meant nothing.

Candidates of Japanese and Chinese descent have met with even greater difficulty than haoles in translating their names. One Chinese received inspiration from his profession and called himself *Keiki Pai Kii* or "The Boy Photographer."

The great game of politics.—There are important bosses in the Islands. On the island of Hawaii the dictator has been the sheriff, who has maintained himself by much the same means as do most American political mentors, that of patronage. In Honolulu there can hardly be said to be a boss. To understand the situation on Kauai and Maui we must investigate the social organization of the Islands.

When the missionaries first arrived in Hawaii, they were received with great veneration by the natives, and this affection was passed on, in large measure, to the sons of missionaries who became plantation owners. Consequently a regular feudal organization grew up. The missionary's son owned the plantation and everything on it. Yet he had a certain responsibility to the Hawaiian families living on the plantation. When they were in trouble they went to him and he was to get them out of it; when they were glad he was expected to rejoice with them. The relationship between employer and employee was much more than a business one, and the Hawaiians regarded the manager of the plantation as a father to them. It was a very fortunate arrangement.

In Honolulu this system has given way to cold business dealings involving big corporations. In Hawaii it never existed to any great extent. But on Maui and Kauai this paternal influence of the plantation owners and managers is still very great. Two families control the two islands. Representatives of both families live on each island. These

families are loyal to the Hawaiians, and the Hawaiians are loyal to them.

We have now considered the two political parties in relation to the voter. We have yet to discuss their connections with the government and its administration.

Distribution of patronage is carefully watched by both parties. In the Honolulu city government, appointments are always within the party of the dominant group. On Hawaii, where there is practically no Democratic party, the split is between different factions of Republicanism, and appointments are within the membership of the coterie in power. There are few appointive jobs on Maui and Kauai, and they are mostly technical positions; thus appointments are not strictly political. In the territorial government such offices as attorney-general, budget officer, and sheriff are political choices. Offices, such as president of the board of health, commissioner of public lands, and executive officer of the board of agriculture and forestry are not. National appointments are usually subject to the suggestion of the delegate to Congress, if he is a member of the administration party in Washington. Otherwise the party central committee usually has the deciding voice. In the case of local appointments, the Democratic committees, county and central, still have the dominant influence; but the Republicans have followed the policy of recommending any qualified Republican.

In the actual conduct of the government the Centrist wing of the Republican party is usually the strongest. Most of the time it controls a majority or, if not that, a deciding minority in the legislature. The governor, however, is usually chosen from the other wing of the Republican party, for it is the conservatives who usually have the greater influence at Washington. Very frequently rela-

tions between the executive and the legislative branches of the government are not cordial. Thus the parties, in Hawaii, often cannot perform one of the functions for which they are most useful on the mainland, that of co-ordinating the different divisions of government service.

Hawaiian party politics is at its greatest intensity in Honolulu. There the Democratic party is strong enough to offer real competition. To be sure the Democrats have been in control of the office of mayor most of the time in recent years, and they have had a majority among the supervisors part of the time. When the Democrats were in complete control, appointments to city offices were strictly on party lines, regardless of merit. With the ascension of the Republican party, there was a complete turnover in good old American style. Out went the Democrats, in came the Republicans. In the county politics of Hawaii, Maui, and Kauai the Democrats are not numerous enough yet even to be good fun. The fights, not very bitter on Maui and Kauai but very bitter on Hawaii, are mostly personal, among factions of the Republicans. Appointments are made according to the personal preference of the appointer.

The tone of Hawaiian politics in general is neither conspicuously good nor conspicuously bad. As we shall see, it is at its worst in county-and-city government. Political graft has existed on the island of Hawaii, and Honolulu has not been free from it. In general, the voters are less particular about the consistency and integrity of their officeholders than about their personal likability.

The rôle of the prophet is the most dangerous of all occupations, and political prognostication is the most hazardous form of prophecy. But it may be in point to venture some guesses as to the future of political parties in the

Territory of Hawaii. There has been much pessimism as to the ultimate fate of the parties unless the present primary law is changed. That law, we may remember, is so loose as to allow any voter to participate in the primary of either or both parties, providing only he does not vote twice for the same office. Of course, the minority party will often try to help the majority party choose its weakest candidate. Whether this is actually done on any large scale is a matter of conjecture. The apology is made for the primary law that all the sugar planters are Republicans, and if their employees had to register publicly their party affiliation and if they declared themselves Democrats, the planters would discriminate against them in business.

But the law could be amended to prevent voters from helping to nominate a man from one party for one office and another man from another party for another office, by merely requiring him to vote in the primary of only one party; and that would not demand that he declare his party affiliation in public.

But party life in Hawaii shows few signs of imminent decease. Probably as long as sugar is the dominant product of the Islands, the Republican party will be the dominant party. Whether the young citizens of Oriental ancestry, as they come of age, will join the Democrats in revolt against the sugar people, as they are sure to be urged to do, is yet to be seen.

BIBLIOGRAPHY

Samuel G. Blythe had an interesting and fairly accurate description of Hawaiian politics in the *Saturday Evening Post* for December 12, 1925, entitled "Hoo Malimali." Territorial central committees of the two parties both publish books of rules. The Hawaiian corrupt practices act is Revised Laws of Hawaii, 1925, §§ 64–65.

CHAPTER VII

THE LEGISLATURE

Members.—If the commissioners who framed the Organic Act had been of adventurous spirit, they would have had an excellent opportunity to test out new methods in this new territorial government they were constructing. Students of politics had long urged that a state legislature should be of but one house, rather than of two, that the existence of two caused needless duplication and waste. The Islands were accustomed to a quasi-parliamentary form of government, and the last legislature under the monarchy was of but one house. But of course the President's commission was sobered by the fact that Congress had to approve their handiwork, and they provided for the old well-worn American system of a senate and house of representatives, with members elected from the districts in which they reside.

For the purpose of choosing the two bodies, the territory was divided into four senatorial and six representative districts. Each county was made a senatorial district, and the city-and-county is the fourth. Hawaii County was named District Number One with four senators; Maui County was Number Two with three senators; Honolulu, Number Three with six senators; and Kauai, Number Four with two senators. The senate was made renewable, seven at one biennial election, and eight at the next. In 1926 eight were chosen; in 1928, seven. Obviously, of the first senators elected some could serve only two years. To get the scheme started, the Organic Act provided that the first incumbents should decide among themselves which should serve the short terms and which the long. But the

senators could not agree. Congress had to step in and fix the arrangement by law.[1]

Representative districts are also based on county boundaries. Districts Number One and Number Two are located in Hawaii County, and they elect four representatives each. Maui County was designated District Number Three, electing six representatives. Districts Four and Five are on Oahu; they elect six representatives each. Kauai was designated as District Six, and chooses four representatives. These representative districts are the units for all election reporting.

The matter of legislative apportionment has caused considerable comment of late. Although the Organic Act specifically instructs the legislature to reapportion both houses after each census, the original arrangement, fixed by Congress in 1900, still remains. The fact is that the city of Honolulu has grown so much faster than the rest of the Islands that Oahu now has fifty-one per cent of the population of the territory, but it elects only forty per cent of the senators and thirty-four per cent of the representatives. Honolulans regularly start a move for reapportionment at the beginning of each session of the legislature, and each time it comes to grief. Despairing of accomplishing anything in the local legislature, people of Honolulu are advocating an attempt to petition Congress. Considering the failure of Congress to put its own house in order, the move would at least produce an interesting situation.

Membership qualifications are about the same for both houses. Members must be citizens of the United States, must have been residents of the Islands three years, and must be entitled to vote in the district from which they are

[1] 32 Statutes at Large 200.

elected. For the house the minimum age is twenty-five; for the senate thirty. No one may be a member of either house who has been convicted of bribery or of certain other important crimes, or who holds another office in the federal, the territorial, or the county government.

Members of the two houses receive a thousand dollars each for their services during a regular session of the legislature, and are entitled to five hundred dollars for a special session.

Organization.—The legislature meets on the third Wednesday in February of odd-numbered years. Sessions last sixty days, but may be extended to ninety days by the governor; and the chief executive is also given power to call special sessions. Certain rules as to the enactment of laws are laid down by the Organic Act. A majority of each house constitutes a quorum, and for most business a majority of the quorum is sufficient. But, says the Organic Act, "the final passage of a law in each house shall require the vote of a majority of all the members to which such house shall be entitled." All bills must have three readings on separate days, and those passed on the third day are presented to the governor for his approval. He has ten days in which to act. He may disapprove individual items in appropriation bills, and if he vetoes a measure it requires two-thirds of both houses to overrule him. If he does not veto it, the bill becomes law, unless in the meantime the legislature has adjourned *sine die,* in which event all bills which the governor does not sign suffer what is popularly known as "the pocket veto."

Each house, the Act provides, shall choose its own officers and determine its own rules. By and large, the procedure of both branches is very similar to that of a mainland legislature. The house of representatives elects a

speaker and a vice-speaker from its own membership, and a chaplain, a sergeant-at-arms, clerks, messengers, doorkeepers, and janitors from the citizenry at large. These officers perform those duties customary to their positions. There are twelve committees: finance; judiciary; education; health, police, and military; public lands and internal improvements; agriculture, forestry, promotion, and immigration; municipal, county, and civil service; accounts and public expenditures; enrolment, revisions, and printing; miscellany; rules; and journal. Those on finance, judiciary, and education are most important, judging from a comparison of the number of reports which each makes. All but the last three committees are supplied with clerks.

Officers of the senate are a president and a vice-president chosen from its own membership, a chaplain, a sergeant-at-arms, clerks, messengers, and a janitor, chosen at large. Of the committees, that on ways and means is undoubtedly the most important. The others are: agriculture, forestry, and promotion; public lands and internal improvements; education; public health; enrolment, revision and printing; accounts; rules; and military. Each committee has a clerk.

Powers.—It must continually be remembered that final legislative authority over a territory resides always in Congress. The local legislature has only that power which has been delegated to it. In *Sawyer* v. *El Paso Railroad Company* the federal court expressed the law when it said:

> As Congress has complete control over the territories of the United States, it may delegate to the legislatures created by virtue of its authority all the legislative power that it itself has. . . . . And it may place such restrictions on the . . . . legislation as it may deem proper.[2]

[2] 108 Southwestern 718.

However, there are doubtless certain powers which Congress could not grant, such as those to coin money, to regulate commerce, and to pass bankruptcy laws; for they are, according to the first article of the Constitution, specifically given to Congress alone.

Furthermore, acts of the territorial legislature, even when within their proper sphere, are always subject to the approval of Congress. The Supreme Court once said of the relations between Congress and the territorial legislature that Congress could "make a void act valid or a valid act void."[3] But that judicial aphorism requires some limitation, for there are many acts which a territorial legislature could pass which Congress could not validate, for example, an act providing that everyone in the Islands be shot at sunset. Everybody must keep within the Constitution. It has been the practice for Congress to grant "all the powers of self-government consistent with the supremacy of national authority and with certain fundamental principles established by Congress,"[4] and then to keep hands off.

Authority of the legislature of Hawaii is derived from Sections 51 to 55 of the Organic Act. In its provisions and wording, it follows closely the Wisconsin law of 1836. Specifically, it sets forth that each house may punish one of its own members, or anyone not a member, for contemptuous behavior, for threatening harm to any member on account of legislative function, for assaulting or detaining any witness before either house, or for rescuing anyone arrested by order of either house. Each body is the judge of its own election; and the legislature must

[3] 101 United States 133.

[4] *Church of Jesus Christ* v. *United States,* 136 United States 1.

reapportion the membership of the house and the senate after each regular census. This latter, as previously stated, has not been done. Appropriations are made by the legislature. Some very special provisions govern this power:

> In case of failure of the legislature to pass appropriation bills providing for payments of the necessary current expenses of . . . . Government . . . . the governor shall upon the adjournment of the legislature call it in extra session for the consideration of appropriation bills, and until the legislature shall have acted the treasurer may, with the advice of the governor, make such payments, for which purpose the sums appropriated in the last appropriation bills shall be deemed to have been re-apportioned.

Hawaii is the only organized, incorporated territory where such a provision exists. Its obvious purpose is to prevent the legislature from coercing the governor. Although seven special sessions have been called to consider appropriations, none of them has been strictly within this section of the Act, and the treasurer has never been called to make payments in accordance with it. A dictum of the supreme court of the territory indicates that, if such a session became necessary, appropriations could lawfully be made for other than the "necessary current expenses" of government.[5] The territorial legislature is also given express power to enact laws allowing "persons to associate themselves together as bodies corporate" for an enumerated list of business and charitable purposes. But such corporations are corporations of the territory and not of the United States, and therefore they cannot sue as the latter in United States courts. Finally, the right of eminent domain is legally affirmed in the territory.

In addition to the specific powers mentioned, the Organic Act declares, "the legislative power of the Territory

[5] *In re Queen's Hospital,* 15 Hawaii 514, 663.

shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable." This is a clause common among Congressional acts creating territories, and it exists, in addition, in the Revised Statutes of the United States governing all of the territories.[6] As usual with such general provisions, the exact meaning of the provisions has never been defined. The Supreme Court once said that it refers to those subjects "upon which the legislatures had been acting with the consent and approval of the people they represented,"[7] but in its present unqualified form it probably embodies a more generous grant of power than most of the legislatures of the states enjoy. It does not entitle courts to question an act on the ground that it is unequal or unjust or unwise.[8] It has more the significance of "lawful." From the decided cases on the subject, involving Hawaii and other territories, we can see that it embodies authority to legislate concerning personal rights, rights of action in courts, the general health or morals of the community, jurors and their selection, jurisdiction and procedure of local courts, qualifications of electors consistent with acts of Congress, and the general subject of police power.

There are, of course, limitations on this delegation of authority. It goes without saying that the legislature must keep within the federal Constitution and not pass any law contrary to the Organic Act. In the Organic Act are laid down certain particular prohibitions. The legislature may

[6] Revised Statutes of the United States, § 1851.

[7] *Maynard* v. *Hill,* 125 United States 190, 206.

[8] For collection of cases on this and other points of legislative power discussed in this chapter, see 38 Cyclopedia of Law and Procedure 206 and 26 Ruling Case Law 680.

not grant to any corporation any special privileges, and the net result of this provision is that municipal franchises to public service corporations must be approved by Congress. No divorce may be granted by the legislature. It is prohibited to the legislature to allow lotteries. This latter is an inheritance from a fight waged during the monarchy, when the anti-royalist party accused the rulers of accepting bribes in return for granting lottery monopolies. There are in addition a number of limitations on the fiscal power. The legislature may not appropriate money for any school not exclusively under the control of the government. Neither the territory nor any of its political subdivisions may subscribe to the capital stock of any corporation, nor lend its credit to such an institution. No debt may be contracted, except for certain specified enterprises. For such purposes as paying interest on existing debts and suppressing insurrection there is no limit to the amount of debt which can be contracted. But there is another list of purposes which includes the erection of penal, charitable, or educational institutions, public buildings, wharves, roads, harbors, and public improvements in general. For these purposes the total debt incurred in any one year by the territory, or any subdivision of it, shall not exceed one per cent of the assessed value of the property at the last valuation, and the total debt of the territory must not exceed ten per cent of the assessed valuation.

The courts have decided that there are certain general restrictions on all territorial legislatures irrespective of the particular wording of their Organic Acts. The territorial legislature cannot delegate its power, although from cases decided concerning other territories it appears that a law authorizing submission to local popular vote the question of prohibiting the sale of intoxicating liquors is not an im-

proper delegation of power, nor is the submission of a city charter for popular ratification. Although the constitutional provision protecting contracts is directed against the states, it has been held that territorial legislators cannot pass laws which impair the obligation of contracts. No law can be passed to limit or qualify the appointive or pardoning power of the governor. Aside from these general and specific limitations, the lawmakers can legislate to the full extent of their authority.

Operation.—In its work the Hawaiian legislature is probably no worse or no better than the legislatures of most states. Its members have a tendency, as do most legislators, to forget Edmund Burke's beatitude that it is more blessed to repeal than to enact. In 1923 the two houses passed 264 bills, out of 608 introduced, and the 1925 session recorded 281 new statutes. Hawaiian jurisprudence is very much simplified by the praiseworthy policy of revising the laws every ten years. The last revision was in 1925.

Lawmakers of Hawaii have tended to be quite progressive in at least some branches of their work. They have been willing to grant great powers to the board of health because of the special dangers which surround the Islands. They spend considerable money on schools. The commission on public accountancy has been given excellent support in its effort to revise the bookkeeping systems of the territorial and local governments.

There are two commissions in the Hawaiian administrative system whose express purpose is to advise the legislature in certain fields of lawmaking. The governor, with senatorial consent, appoints a commission on uniformity in legislation. This body is in accordance with the national movement for uniformity in certain branches of the law.

As a result of the recommendations of the commission, the territorial legislature has passed the Negotiable Instruments Law, and the Uniform Warehouse Law, which have been adopted in nearly all the state jurisdictions. There is also a commission on judicial procedure made up of one supreme court justice, one circuit court judge, and two members of the Bar. This body has not been very active. One department which would be a useful addition to the Hawaiian government is a legislative reference bureau, similar to the one which has been so successful in Wisconsin. Some of the laws passed by the territorial legislature are good and some ridiculously poor. In 1925 they amended the county acts, changing the years for county elections. That was right and proper. But they neglected to change the primary law, so for a time it seemed as if the counties would have an election without a primary.

English is the official language of the legislature, according to the Organic Act. At first a knowledge of Hawaiian was necessary, and even now some Hawaiian phrases are heard in the senate and house. There is a peculiar coincidence in that the Hawaiian word for "yes" sounds identical with the ordinary affirmative vote, and it is not always apparent, nor material, whether a gray-haired Hawaiian legislator is saying *"ae"* or "aye." Frequently a member will answer *"kanahua,"* which means "doubtful" or "pass," and then the clerk calls his name later. Most of the work of the sessions is done in committee, although probably less of it than in most legislatures. Debate in the two houses is not of a high order, but it is not in most state legislatures. It is well known that the flow of oratory has little relation to the flow of legislation except to make it more sluggish.

The senate is generally regarded as being the more important and influential branch of the legislature. This is because of its control over appointments of the governor, and because of the fact that more ability has been represented in its membership. For some time past the senate has been largely under the influence of a rather small group of men who are generally associated with the more liberal wing of the Republican party. There are often bitter fights in the legislature, but they are largely of a factional nature. Alignments are likely to be temporary, depending on the exigencies of the moment.

Members of the legislature will vary more in type and differ more in ability than in the legislatures of most states. Some members are of excellent education, from the first families of the Islands, and bring to their problems an intellectual background seldom to be matched elsewhere. But there have been those from outlying rural districts who are totally uninformed on any branch of public policy and are willing to do as they are told. Members vary greatly as to their purpose in running for the legislature. There are a very few who are unselfish and patriotic. More have political axes to grind; they are in the legislature to look out for the interests of the sugar planters, or to oppose them. One peculiar characteristic of the Hawaiian legislature is that several of its members come to it just to have a good time. Many of these live in distant country bailiwicks and have not money enough to travel to Honolulu every two years; so they run for the legislature and get their expenses paid.

Meetings of the legislature are gala events. At the first session there is always much music and there are many *leis*. Hula girls are there to dance. Even during the session it is not uncommon to devote a few minutes

after the morning prayer to some good singer or dancer, and the legislators frequently join in the festivities and exercise their vocal and terpsichorean skill. At every session the members make it a point to take some entertaining trip, usually to very little purpose. Most likely the two houses will go to Molokai in a body and inspect the leper settlement; and to facilitate exact legislative observation, they take along the Royal Hawaiian Band of Honolulu.

It is difficult to evaluate the work of the legislature. People in Hawaii have often subjected it to ridicule; but that is only the local reaction to the general tendency to poke fun at lawmakers. The legislature of Hawaii is not particularly bad nor particularly good, and at its worst, like all legislative assemblies, is a necessary evil.

BIBLIOGRAPHY

Powers of the legislature are outlined in the Organic Act, § 55. The rules of the houses are published in the front of the journals of the house and senate each session.

CHAPTER VIII

THE EXECUTIVE BRANCH

The chief.—There are eighty-five separate divisions in the territorial government of Hawaii. They vary in size from two thousand employees to one. The department of public instruction spends more than four million dollars yearly, and at least four separate divisions spend nothing at all. Administrative functions of Hawaii include giving away land, loaning money, watching every tuberculosis suspect in the Islands, collecting old Hawaiian songs and legends, catching rats, building bridges, governing a leper colony of more than five hundred people, and running educational institutions for feeble-minded, blind, deaf, and bad, as well as normal, children and adults. The government constantly watches and regulates the conduct of physicians, lawyers, osteopaths, druggists, accountants, engineers, architects, oil dealers, dentists, teachers, opticians, commercial air pilots, insurance agents, bankers, employers of labor, and corporations. How these many different activities are performed by the many different departments is the subject of this and the four succeeding chapters.

The head of the executive branch is the governor. He is more decisively the head of his administration than are the governors of most states. He appoints every head of an administrative department, except the secretary of the territory. Six hundred and thirty-three officers are chosen personally by the governor, and through these, of course, he can control the selection of subordinates. Of the six hundred and thirty-three gubernatorial appointees, two hundred and eighty-one are election inspectors, two hun-

dred and twenty-four are members of fifty-seven different boards, and twenty-eight are department heads.

Although this list of appointees is very imposing, the power of the chief executive is less than it seems at first sight. Eleven of the twenty-eight department heads and members of forty-four of the fifty-seven boards must be confirmed in their appointments by the territorial senate; these include all the important officers of administration except the director of the budget bureau. It would be quite possible for the senate to checkmate the governor completely were it not that he can make interim appointments, which lapse at the end of the succeeding senate session. Though frequently the legislature is not in sympathy with the governor, the arrangement seems not to have caused much trouble, for, while senatorial preferences have probably influenced the choice of officials, the senate has not often tried to dictate to the governor whom he should appoint.

The governor is checked in another way. Most of the important officials serve for terms as long as that of the governor himself, or even longer. Of the fifty-seven territorial boards, four have a one-year term, eight serve two years, nine three years, seventeen four years, seven five years, and one six years, and only eleven boards can be dislodged by the executive at his pleasure. In addition, seventeen of the boards are appointed for overlapping terms. Among the department heads, nine, including all the important ones, are chosen to serve as long as the governor (four years), ten have three-year terms, and eight serve during the pleasure of the chief executive.

Thus, by senatorial confirmation, by long periods and overlapping terms, the governor is limited in his appointments. He is also checked in another way. For all those

offices where senatorial confirmation is necessary to appointment, the approval of the senate is necessary for removal. Fortunately the senate has co-operated with the governor when removals have been necessary.

An interesting situation has arisen over the appointment of election inspectors. The Organic Act provides that they shall be chosen for a period of four years, with the consent of the senate. Now, in actual practice, the senate never confirms these appointments; so they lapse at the end of each session, and the governor appoints new inspectors. Thus we have the peculiar situation that, through the senate's refusal to confirm the appointments of the governor, his appointive power is increased. Inasmuch as the legislature meets only once in two years, and then only for six weeks, why cannot the governor fill all the offices by interim appointments, renewed every two years, if he so chooses?

It is the duty of the governor to co-ordinate the administration of the territory. It is a commonplace of practical politics that the best means of control and co-ordination is through appointment and removal. We have seen the extensive power of the governor in this respect, limited, however, by the necessity of consulting the senate. To insure co-operation within his staff, each governor of Hawaii has formed a cabinet including the ten most important administrative officers of the government plus the governor's private secretary. The cabinet meets once a week. If it were not for this, and for the fact that all the executive officers of the government owe their selection to the chief executive and are responsible to him, it is clear that with eighty-five separate departments the administrative affairs of the territory might easily be involved in a hopeless tangle. The administrative branch is not well

organized, as we shall see, and only this centralization of responsibility enables it to attain any degree of efficiency.

Fiscal powers of the governor were discussed in the last chapter. He is expected to prepare a complete budget for the beginning of each legislative session, and he now has a budget bureau to facilitate this work. More details concerning the budget will be presented in a later chapter on finance. The governor may disapprove individual items in appropriation bills. The legislature cannot coerce him by failure to appropriate money for the work of the government, because he can authorize the treasurer to draw on territorial funds according to the appropriations of the previous biennium.

The chief executive is commander-in-chief of the militia of the territory. He may "call upon the commanders of the military or naval forces of the United States in the Territory of Hawaii, or summon the *posse comitatus,* or call out the militia of the Territory to prevent . . . . lawless violence." Very seldom is this power exercised. The governor may also "in case of invasion" suspend the privilege of the writ of habeas corpus or place the territory under martial law "until communication can be had with the President and his decision made known thereon." This power has never been used.

In connection with the system of territorial elections the governor has important functions. He issues proclamations for all territorial elections and may call special elections. He outlines precincts and appoints election inspectors. Actual supervision of the polls is under the secretary, and the governor follows his advice on most points in connection with elections.

Finally, the usual power of pardon and reprieve against the laws of the territory is allowed the governor;

and he may grant reprieves against United States laws, subject to the decision of the President. Executives have adopted the policy of referring all applications for pardons to the boards of prison inspectors, of which there is one in each judicial district.

Other responsibilities of the chief.—We have now seen the purely executive duties of the governor. He appoints officials, co-ordinates their work, exercises financial powers, has important military powers, performs duties in connection with elections, and has the power of pardon and reprieve. In all these respects, it is clear, his office is not unlike that of state governors. A difference, however, is manifest in the relations between the chief executive and the legislature. In state government the governor is not infrequently of the same party as a majority of the legislature, elected at the same time as the legislators on the same issues; and from the very nature of things the governor usually has considerable influence over legislation. In Hawaii, he is not elected but appointed. He need not be and frequently is not a good politician. It is likely that the majority of the legislature will represent political views different from his own. He is not the political leader of the legislature, because, just as he is largely independent of it for his administration, it reflects the same attitude in legislation and is independent of him. Members think they were chosen by the people, while he was named at Washington, and that, therefore, they are more capable of representing the popular opinion of the Islands. So the governor of Hawaii has not any measure of that extra-legal legislative influence made so prominent a few years ago by Johnson in California, LaFollette in Wisconsin, and Wilson in New Jersey. True, he does have a veto; he sends in a message

at the beginning of every session, and may call the legislature together for a special meeting; but these are formal functions. He is not in any sense, except in rare instances, a prime minister, a leader of parliament.

Social duties constitute a great drain on the governor's time. They are probably far greater than those of the governor of any state. Within the territory, the governor is expected to attend every public function, from the dedication of a rural church on one of the outlying islands to a football banquet at the University of Hawaii. Recent governors have been good speakers, and as a consequence have been asked to make addresses upon many occasions. It is not unusual for the chief executive to average two or three addresses a day over a considerable period. It is very unusual for the governor to have an evening at home. Because of Hawaii's isolated position, visitors coming to Honolulu regard their arrival there in a different light from a mere journey between mainland states. The governor is expected to receive and entertain incoming notables. In the case of foreigners this duty is of particular importance, because their impression of Hawaii is usually their first or their last impression of the United States. Then, all important army and navy officers, and all foreign consuls, of which latter there are about eighteen, make official calls on the governor, which he has to return.

A great deal of purely physical labor is visited on him in the signing of documents. He must attach his name to all executive orders, laws, land grant patents, land leases, rights of way for irrigation over public lands, passports, birth certificates, decrees of change of name, pardons, paroles, reprieves, charters of incorporation, rules of the board of health, and regulations of the board of agriculture and forestry; and this is only a partial list.

The governor is, as we have said, appointed by the President. Arising out of his national connections, he has one peculiar power, and that is to issue and renew passports for the State Department. Authority for this was granted in 1920 at the request of Governor McCarthy.[1] Honolulu is six thousand miles from Washington, and five weeks is about the minimum time for the exchange of postal communication with the national capital.

There is a great deal of politics afoot when a governor is to be chosen. A successful candidate must have people pushing him in Honolulu and others pulling for him in Washington. But the essential thing is influence with the President. Governor Farrington was a personal friend of President Harding's. The appointment is always from the party of the President. Formal recommendation by the party central committee in Hawaii is usually influential, if not decisive, in most appointments, but not so with that of governor. When the Republicans are in power the sugar interests in Honolulu are expected to have considerable say as to the governor, because they are always substantial contributors to the national party fund.

In his official duties the governor leads a double life. Although he is titular head of the territory and the director of its executive branch of government, he is responsible to the President. He must please Hawaii, and obey Washington. This carrying of water on both shoulders is not easy, but the governors of Hawaii have been successful at it. The men who have filled that high office have been singularly able. There has not been a second-rate executive among them. Unquestionably their caliber has been far above that of the average state governor.

[1] Under authorization of Section 4075 of the Revised Statutes of the United States as amended by the Act of June 4, 1902.

Ten thousand dollars a year is the governor's salary, all of which is now paid by the federal government. He is furnished with a mansion, Washington Place, and five thousand dollars a year to keep it up. Three thousand five hundred dollars a year are allowed him for entertainment, and three thousand for a private secretary. The amount of money thus placed at his disposal is probably more than that of the governor of any state, and his personal salary is exceeded only by those of the governors of Pennsylvania and Illinois. Yet, because of the demands made on the governor of Hawaii, the amount is not any more than sufficient.

The secretary.—To all intents and purposes the secretary of Hawaii is the lieutenant-governor of the territory. Except in the absence of the chief executive, he has very little to do. He is chosen by the President and approved by the Senate, but usually his appointment depends on the recommendation of the governor.

His function as lieutenant-governor depends, of course, on the personal habits of the governor. The average executive may be expected to be absent almost one-fourth of the time.[2] On all occasions the secretary is supposed to be the right-hand man of his chief. He must be in accord with the policies of the administration, and is usually a confidential adviser. As far as possible, he tries to take the social obligations off the shoulders of the governor.

Administration of elections is directed by the secretary. He receives nomination papers for delegate to Congress, supervises the inspectors of election, expends the sums appropriated for election purposes, receives election returns, and issues certificates of election. But most of

[2] Governors usually make about two trips a year to Washington to report to the Department of the Interior.

the secretary's duties are purely clerical. He promulgates laws, preserves legislative acts and proceedings, and files orders of the governor. Notices of appointment of acting heads of departments are filed with him. The secretary selects motor license plates as to size and color, and purchases and distributes them to the county treasurers. He is also custodian of the Great Seal.

In our discussion of the relation between the races of Hawaii and the government, we paid only passing notice to the question of Hawaiian birth certificates, because the problems concerning them are largely problems of administration. This is the place to consider them. The certificates are issued by the secretary. They testify that the person to whom they are issued was born in Hawaii, and is entitled to full rights of American citizenship. In Honolulu the immigration officials have always assumed that all those of Oriental parentage are not American citizens until it is proved that they are. These birth certificates, therefore, appeared to be useful to Orientals in gaining admission to the United States proper and in gaining readmission to Hawaii after a journey abroad. But their usefulness was sadly impaired by the refusal of immigration authorities to give credence to territorial certificates. The federal officials demanded an investigation of their own; thus the only value of the documents came to be in proving the right to vote. As time has gone on, and more Orientals have become entitled to register, the county clerks have been letting down the bars. Certificates are not always demanded. Then, too, the certificates were not popular with the Chinese and the Japanese because of their high cost. There were application fees, issuance fees, fees for certified copies, witness fees, photograph fees, and agents' fees. Altogether the expense was not less than

thirty-five dollars, which carved a substantial slice out of the yearly salary of the average Japanese or Chinese plantation worker. Agents who circulated about, trying to interest the Orientals in the certificates, were none too scrupulous.

Recently the cost has been cut and Governor Farrington's administration has made an effort to increase the popularity of the certificates. In 1925 a legislative commission was sent to Washington to get the Department of Labor to admit the territorial birth certificates as conclusive evidence of citizenship. This, the Department refused to do. Consequently the future of these certificates is extremely doubtful. Up to September 1926, only 15,966 documents had been issued, while the census in 1920 showed that there were about 63,000 in the Islands entitled to them. Certificates are not of great value. Immigration inspectors will not accept them, and the registration officers are coming more and more to the position where they will not demand them. If the secretary could have made his certificates acceptable to the federal government officials, probably his status in the territory would have been measurably advanced. As it is, aside from the times when he is acting governor, he is one of the minor lights of the administration, in spite of the fact that he is appointed by the President of the United States.

So far in this chapter we have been considering the general organization of the executive branch, and the duties of the two leaders of it. Before taking up the details of administration, let us consider a few general problems of administration concerning personnel and housing.

Personnel administration.—There is no civil service system in the territorial government. There is supposed

to be a civil service commission to select the employees for the board of health, but it has been inactive so long that the memory of man runneth not to the contrary. The governor has often urged the necessity for some move to establish a merit system, and that is a likely step for some legislature in the near future. In general, appointments have been made on the semi-political basis. It is difficult to generalize as to the quality of them. Probably territorial employees are as efficient as those of the average government office, perhaps more so. Politics is not so rampant in appointments as in many communities, because the governor does not have to play up to local bosses. The administration has of late adopted the policy of making promotions within the government departments, a policy which will doubtless promote efficiency. A few branches, such as the department of public instruction and the board of health, are singularly effective.

As there has not been any classification of salaries in the government, the same work is paid for at various rates in the different departments. It is generally true, however, that salaries of government employees are higher in Hawaii than on the mainland, partly because of the fact that all salaries are higher in Hawaii. It is not unusual for an ordinary stenographer or an ordinary clerk in a public office to receive from $150 to $200 a month. Heads of departments are well paid. The highest salary is that of the chief justice of the supreme court, who receives $10,500 a year. The president of the University of Hawaii and the associate justices of the supreme court get the same as the governor does, $10,000 a year. The attorney-general is paid $7,800 a year, and the director of the budget $7,500. The president of the board of health and the superintendent of public works get $7,200 each.

Six thousand dollars a year go to the secretary of the Hawaiian Homes Commission, to the sugar expert, and to the auditor. The commissioner of public lands and the treasurer are paid $5,700, the secretary $5,400, and then the salaries shade down to $3,600. Certainly it cannot be said that salaries paid to these men are in proportion to their importance or their responsibilities.

The legislature of 1925 established a retirement system for all territorial employees. Prior to that time the territorial government had no uniform method of caring for old employees. Provision was sometimes made for retired officials by special legislative act. A teachers' pension system set up in 1915 was practically insolvent by 1925. In 1923 the legislature appointed a joint committee on pensions, which enlisted the services of Mr. George B. Buck, of New York, actuary for the federal pension system. Under his advice, the committee made a ninety-three-page report to the legislature outlining a plan. It was adopted.

On January 1, 1926, the new pension system went into effect. All rights under the old teachers' fund were transferred to the new fund, which made provision immediately for thirty pensioners to receive fifty dollars a month. The plan was designed to include all the then employees who elected to become members. All new employees are forced to join it. Management of the plan is vested in a board of trustees, composed of the auditor and the treasurer of the territory, one other member elected by the members of the system, and two members appointed by the governor, one of whom must be a banker. The board is unpaid. It employs a paid secretary and actuary.

The benefits are as follows: A retirement pension is paid at the age of sixty, or at any time thereafter that the

employee wishes to retire, which pension amounts to about one-seventieth of the average yearly compensation of the pensioner during his last ten years of service, multiplied by the number of years of his service. Thus, the benefit after thirty-five years of work for the government is about half his average yearly pay during his last ten years of employment. In counting length of service, an employee is allowed to claim benefits for services rendered the territorial government, the republic, the provisional government, and the monarchy. Benefits consisting of two-thirds of the average final compensation, plus the annuities which the employer's contributions will purchase, are paid in case of accident in the performance of duty at any time. In case of ordinary disability, benefits depend upon length of service, but in no case will they be less than twenty-five per cent of final average compensation, provided only that the employee has been in the service of the government at least ten years. Death benefits are paid in case of death due to accident in performance of duty at any time, and are paid in case of death due to ordinary causes if the employee has had one or more years of service. In the first instance, a pension equal to half his final average compensation is paid to the widow or dependents of the employee; and in addition the employee's contributions, with interest, are returned to his beneficiary. In case of ordinary death, a lump sum payment of fifty per cent of his final compensation is paid to his estate, and in addition the employee's contribution with interest is returned to the beneficiary. If an employee resigns, or is dismissed, he receives all his contributions plus four per cent interest.

The system is worked out on a joint contributory plan. Under this scheme employees and the government contribute equally for the period of service performed after

the system goes into effect; the government pays for all the service rendered previously. Employees' rates vary from 3.76 per cent to 8.06 per cent of the total salary. The government pays its contribution into the fund at a regular rate. It deposits 2.99 per cent of the payroll on account of benefits allowable by reason of service rendered after the plan goes into effect, and makes regular contributions of 2.77 per cent of the payroll for thirty years to cover the credit allowed for service rendered prior to 1926.

Although the plan was originally devised for territorial employees alone, it was extended in 1927[3] to cover the counties and the city-and-county. As with territorial employees, county officials then in service had the option to join, and those subsequently employed were obliged to join.

The establishment of this pension system is without question one of the most constructive moves that the territory has made for some time. The plan was scientifically constructed. There is none better.

Offices for the officers.—There remains for consideration the housing of the territorial government. Until recently most of the offices were in the old monarchical palace, called Iolani Palace, in the center of Honolulu. The courtrooms and judicial offices were in the ancient capitol across the street. All over Honolulu were scattered offices of various governmental divisions, such as the fish and game commission, the board of agriculture and forestry, and the industrial accident commission. Accommodations were woefully inadequate. The palace is a delightful and historic place, but it bears no resemblance to a modern office building. In 1926 a big, new,

[3] Act 251, Session Laws of 1927.

territorial office building was completed which has greatly relieved the pressure of crowded conditions. Territorial offices are now well housed.

BIBLIOGRAPHY

Again our only references are legal references. For the office of governor see the Organic Act, §§ 66–68. For the office of secretary see Organic Act, §§ 69 and 70; for his duties in connection with elections see Revised Laws of Hawaii, 1925, §§ 32–141; and for provisions regarding Hawaiian birth certificates see Revised Laws of Hawaii, 1925, §§ 196–199. See also the *Annual Reports of the Governor of Hawaii.*

CHAPTER IX

HEALTH AND WELFARE

The board of health.—From the days when the physical well-being of the Hawaiians was ministered to by a priestly class called *kahunas,* long before the advent of the scientific method, the problem of public health has been one of the most vital ones in the Islands. The very conditions of climate which go to produce fertile growth of vegetation also give rise to other forms of life less healthful. Civilization took to Hawaii many diseases which proved disastrous to the native race. The great influx of contract laborers brought not only their peculiar diseases, but also a large population of poor and ignorant people, who have often little conception of sanitation and public health.

As a result, the board of health occupies an unusually prominent position in the life of the territory. It is composed of seven members, who are appointed by the governor and approved by the senate, four of whom must be lawyers, two physicians, and one the attorney-general as a member ex officio. The actual administration of the health department is under the president of the board, who is also appointed by the governor and senate. Usually the board itself does little more than approve or disapprove the acts of the president.

Territorial law gives to the board "general charge, oversight, and care of the health and lives of the people of the territory." It enforces all legislation in regard to public health, and this legislation is very extensive. Public health law covers such subjects as tuberculosis, vaccination, venereal disease, the practice of medicine and allied

professions, sanitary conditions of dwelling houses and of land, pure food and drugs, laundries, barber shops, registration of births, deaths, and communicable diseases. Typical of the Islands is the law which empowers the board to punish anyone "who shall attempt the cure of another by practice of sorcery, witchcraft, *anaana, hoopiopio, hoomauna, hoomanamana,* or other deceitful methods."

That prerogative of the board which is at least potentially the most considerable is its ordinance power. The board of health may make rules in relation to quarantine, sanitation, pure food and drugs, sewage disposal, burial of the dead, food preparation, markets, lodging houses, and places where "noisome or noxious trades or manufactures are carried on"; but such rules are subject to the approval of the governor. However, it is obvious that there are not many ordinances which a board of health would desire to pass which could not be classified under one of these heads. Edicts of the board overrule those of any other department and also overrule all municipal ordinances and laws. The extent of this power is well illustrated by the decision of June 19, 1924, that no one be allowed to enter the territory who had been on the mainland Pacific Coast within three weeks unless he has been vaccinated within seven years or goes into quarantine for three weeks.

Care of lepers.—The chief duties of the department of health are administrative. Its best-known work is connected with leprosy. That disease was introduced into Hawaii in the reign of Kamehameha III.[1] It is believed to have come from China, and this belief is indicated by

[1] Ralph S. Kuykendall, *A History of Hawaii* (The Macmillan Company, 1926), p. 227.

the common Hawaiian name for leprosy, *mai pake,* meaning "Chinese disease." At first nothing was done to fight the danger, but its spread became so noticeable that by the reign of Kamehameha V it had created some alarm. In 1864 a hospital was established at Kalihi, near Honolulu, and a small peninsula on the north side of the island of Molokai was selected as a site for a leper settlement, to which those cases considered incurable might be sent. By the end of 1872 about eight hundred lepers had been removed to Kalawao, as the Molokai settlement was called, and the successor to Kamehameha V, Lunalilo, made strenuous efforts to overcome the pest. In 1873 alone, five hundred lepers were taken to Molokai.

The institutions established in 1864 still exist. Kalihi hospital is used as an experiment station and is conducted by the territorial and the United States governments jointly, two federal public health service physicians being in charge. Recently, in conjunction with Dr. A. L. Dean, former president of the University of Hawaii, the doctors of Kalihi have been making promising experiments in the use of chaulmoogra oil as a cure for the disease.

The station on Molokai is more famous. Robert Louis Stevenson thus describes the relation of the settlement to the whole island:

> Along all its northern side, plunges a front of precipice into a sea of unusual profundity. This range of cliff is, from east to west, the true end and frontier of the island. Only in one spot there projects into the ocean a certain triangular and rugged down, grassy, stony, windy, and rising in the midst into a hill with a dead crater; the whole bearing to the cliff that overhangs it somewhat the same relation as a bracket to a wall.[2]

[2] From his essay "Father Damien," in *Island Nights Entertainment.*

It is on this piece of land that the lepers make their home. There is only one possible method of escape from the peninsula, and that is by a dangerous path up the mountain, which is closely guarded.

All together there are about five hundred patients at the colony now. At first the facilities were very poor, but during the 1880's construction of new hospitals was begun. Now the equipment is excellent. There are four homes for those worst afflicted, two of which are maintained by the Roman Catholic Church. Those outside the hospitals live in cottages, and all receive regular weekly rations of food, light, fuel, and clothing. They conduct a regular farm at the settlement, and have horses and cows and pigs in substantial numbers. Taro, for the making of *poi*,[3] and pumpkins are cultivated. There is the usual district court to decide disputes. The settlement is not as isolated as one might suppose. Visitors are allowed to come and go, and candidates for delegate to Congress always go there and address the voters.

Aside from the lepers, about eighty people are at the settlement, most of whom are employees of the board of health. For a long time there was a tragic problem to be faced in the non-leprous children born of leprous parents on Molokai. Now there are two territorial homes for them in Honolulu, one for boys and one for girls.

If the board of health had nothing more to do than to furnish food, clothing, shelter, and medical attention to the more than five hundred lepers in the settlement, as well as to govern them, it would face a task of some magnitude. The department has fulfilled its responsibilities with distinction. For twenty-three years the super-

[3] See below, p. 126.

intendent of the settlement was J. D. McVeigh, whose success brought world fame for him, and whose generous devotion to a work unusually trying earned for him a warm place in the hearts of those who knew his task best. He was retired by the legislature in 1925, but was immediately appointed to the board of health and continues his supervision, though a younger man is in his place at the settlement.

Disease prevention.—Another great disease threat in Hawaii is tuberculosis. It is at present on the increase, though every effort is being made to check it. Territorial law requires that each physician make detailed reports of all cases he treats, and these are filed and kept on record by the board of health. The department maintains a large clinic in Honolulu and six others scattered over the Islands. One tuberculosis hospital is maintained by the territory. That is Puumaile Home, on Hawaii, which houses about one hundred patients. Three large private hospitals are subsidized by the territory, and by territorial law Honolulu and Maui counties are required to contribute toward the support of certain private hospitals.[4]

Problems of sanitation and prevention receive a great deal of attention from the board. There is one division of the department which inspects food and drugs. Honolulu is the chief scene of its activities, and the greatest tasks of the bureau center around the production of milk, ice cream, and *poi.* This last is the Hawaiian national food. It is the foundation of the diet of most of the native Hawaiians. It is made of taro, a vegetable which is similar in size to a turnip, which is grayish in color, and grows in marshy places. Taro is pounded up and mixed with

[4] Session Laws of 1925, Acts 54 and 119.

water until it forms a mush; then it is allowed to ferment. Many *malahinis* (newcomers) insist that it tastes like library paste. But it is universally used in the Islands. The fact that it is usually mixed by hand, and is not cooked, makes the possibility of contamination very great.

Another division of the department of health is devoted to sanitary inspection of premises. This division concerns itself with tenements, cleans out swamps and sewers, inspects water sources, puts oil in pools to exterminate mosquitoes, and, probably most important of all, conducts perpetual warfare against rats. Fear of the plague haunts every public health officer in the islands and every effort is bent to forestall the disease. On the island of Hawaii particular efforts are being made. In 1928 nearly 146,000 rodents were killed. Five thousand traps were kept continually set.

To supervise the control of contagious diseases, the territory is divided into thirty-one districts, over each of which is a government doctor. These physicians handle the public school work, and collect vital statistics. The department has a separate division to assimilate these, and it issues a report of about a hundred pages each year. Hawaii is in the death registration area but not the birth registration area of the United States Census.

Regulation of professions.—All the efforts for the protection of the public health which have been so far described are directly under the control of the board of health. Among the very necessary preventive measures are those which regulate the conduct of the medical and allied professions, controlling the practitioners who minister privately to the health of the people through their particular methods. There is much discussion as to whether all the different professions should be regulated

by one board or each calling should be presided over by a separate board. Hawaii has chosen the latter method. There are now eight distinct bodies, regulating physicians, osteopaths, chiropractors, dentists, pharmacists, optometrists, nurses, and naturopaths. All of these agencies except the board of registration for nursing are of about the same construction. Each consists of three members appointed by the governor and approved by the senate. The board of registration for nursing has five members. The members all hold office for three years except those of the board of pharmacy, where the term is two years, and the board of medical examiners, where it is five. None of the members is paid.

It is not necessary here to examine each board in detail; that would be altogether too dry and fruitless a task. But there are certain generalizations we can make about them which will give a correct picture of their work. All the boards issue licenses directly to applicants, except the boards of examiners for medicine and for osteopaths. These two make recommendations to the board of health, but their recommendations are always followed without question. All except the boards of osteopathy, nursing, and pharmacy require an examination of every applicant who wishes to practice in Hawaii, regardless of how extensive his previous experience may have been. The boards of osteopathy, nursing, and pharmacy allow permits without examination to applicants who have been licensed by states having at least as strict laws as Hawaii. The president of the board of health is allowed to grant to physicians from the outside a temporary permit to practice. Licenses may be revoked in all cases for unprofessional conduct. In the main, these attempts at regulation seem to have been successful. One board at least,

that of optometry, has frankly recognized its impotency, but has been carrying on a bluff at regulation. Most of the others are endowed with authority sufficient for their purposes.

Now, the board of health, as we have seen, is the center of public health work in Hawaii. It is endowed with unusual powers, which it has exercised with conspicuous success. It is concerned with fighting the two great disease menaces of the Islands, leprosy and tuberculosis, and devotes much attention to the prevention of disease through food inspection and sanitation. As an additional means of saving lives and health, eight boards have been created which have authority to regulate the admission to and the conduct of the members of those professions which are there to cure people. This concludes the strictly public health work as it is carried on by the territorial government, though it is supplemented, as we shall see, by the counties and the city-and-county. We have now to consider the efforts of the territorial government to care for the insane and the feeble-minded.

The halepupuli.[5]—The territorial hospital for the insane is under the supervision of the board of health; the superintendent of the institution is appointed by the board, but once selected he is allowed a very free rein to work out his own problems. There are now about six hundred patients in the institution. Commitments to the hospital are made by district magistrates and circuit judges. Connected with this work is an insanity commission of three members, appointed by the governor with the consent of the senate. Duties of this body are to hear appeals from commitments, grant paroles and discharges, and inspect

[5] The term *halepupuli* is the popular Hawaiian name for the asylum for the insane; literally, it means "crazy house."

the hospital from time to time. Their work in handling appeals is very slight; one member informed me that there had been only two cases in ten years. Most of the time of the commissioners is taken up with paroles and discharges. Commissioners are paid according to the number of commitments they handle; so their salaries are obviously not very great.

Overlooking Pearl Harbor from five miles up in the foothills, surrounded by sugar cane and pineapple fields, is a very modern hospital and school for feeble-minded children. It is known as Waimano Home. Its control is vested in a board of commissioners of five, chosen by the governor with the consent of the senate. There are now about one hundred and fifty children at Waimano. A portion of the income for the home is derived from the rent of two hundred acres of the farm. The remainder of the income comes out of the general fund budget of the territory.

Welfare.—The problem of poor relief in Hawaii is largely in the hands of the counties, but the territory does maintain a board of child welfare in each county and city-and-county. These are composed of five members each, chosen by the governor and the senate. Two of the five, in each case, must be women, and on Oahu the judge of the juvenile court is a member ex officio. Though these boards are chosen by the governor, they must depend on the local governments for the money they can spend. Thus the agencies are partly territorial, partly county. The Honolulu board does more work than the others because it has a larger constituency. During 1925 it supported one hundred and forty-five families. The principles actuating the board's policies are described by the chairman of the Honolulu board as follows:

The board of child welfare was established by the 1917 legislature. The general function of the board is the granting of pensions; the argument advanced to the legislature was that it was of advantage to the community to keep families intact rather than distribute children among charitable homes. Before the board of child welfare came into existence, courts were at times lenient in meting out proper punishment to the breadwinner of a family. Again it is of decided benefit to the community where the father is threatened with tuberculosis, or perhaps some other disease requiring medical treatment.[6]

We have before us now the whole matter of health and welfare as far as the territorial government is concerned. In few states have these problems been more important, and in few states have they been handled with more finesse. While there is no likelihood of any immediate reorganization of the machinery for the exercise of these functions, it does seem that there are at least two administrative anomalies in the system: (1) The existence of a separate board of commissioners to help in the control of the hospital for the insane appears merely to divide responsibility without adding any useful element. (2) It is a question whether the matter of welfare ought not to be left entirely to the counties, as all the money comes from them.

BIBLIOGRAPHY

The territorial law governing public health is found in Title XIV, Revised Laws of Hawaii, 1925, and that governing child welfare in Title XV. Information as to the activities of these agencies is included in the *Annual Reports of the Governor of Hawaii,* and the president of the board of health always makes an *Annual Report* to the governor of Hawaii, which is published by the territory.

[6] This is from a personal letter to me by Mr. Richard A. Cooke.

CHAPTER X

EDUCATION

Public schools.—Literacy was civilization's first contribution to the Hawaiian. Several Protestant missionaries landed in Honolulu in 1820, and, writes Gilbert Grosvenor in the *National Geographic Magazine:*

> In six years they translated the Bible into the Hawaiian language, which they had reduced to writing; in thirty years they taught the entire nation to read and write, so that at one time in the nineteenth century it was the boast of the islanders that they were the most literate people in the world, with the smallest percentage of persons who could neither read nor write.[1]

The first written laws of the kingdom were promulgated in 1840, and one of them provided for schools in every district where there were fifteen or more children, and required compulsory attendance. Public education received every encouragement from the native government. A minister of education was made part of the king's cabinet in 1843, and in 1896 a board of six commissioners was added to the ministry. When Hawaii came into the American fold but few changes needed to be made in the public school system.

Hawaiian law now requires every child between the ages of six and fourteen to attend public or a recognized private school. The educational institutions maintained by the territory include grade schools, junior high and high schools, deaf and blind schools, industrial schools, a normal school, and a university. In 1927 there were more than sixty-two thousand in attendance in the regular public school system. There were two thousand teach-

[1] *National Geographic Magazine,* XLV (February 1924), 115–238.

ers in one hundred and eighty-two different schools. The territory has six high schools, the largest of which is McKinley High School of Honolulu, which has an enrolment of two thousand and a faculty of seventy. Ample educational facilities are placed at the disposal of every child in the Islands.

The problems faced by the educators of the Islands are, in general, the same as those faced by the educators of the mainland. "But in addition," says Dr. K. C. Leebrick of the territorial University, "Hawaii has several difficulties to meet which are peculiar to herself. It is impossible to consider education in Hawaii without thinking of Americanization. The children of non-American parentage number about 40,000 out of the approximate 60,000 pupils in the public schools."[2] Doubtless the most difficult phase of this problem is the teaching of English. A recent report of the department of public instruction thus continues the story:

> Most of the children come from non-English speaking homes, and the first so-called English they hear is the "pidgin" English of the cane fields, the ranches, and the street, frequently mixed with profanity. This jargon is used when conversing with their playmates, and improper speech habits are formed before the children attend school. Once these habits are formed, the correction of them is not an easy problem. It is a hard fight, and teachers' methods are not always to blame for poor results.[3]

As far as possible, the curricula of the schools are adjusted to meet these conditions. From beginning to end, emphasis is placed on English speech and composition, and

[2] K. C. Leebrick, "Education in Hawaii," *Sunset,* LVIII (January 1927), 1–16.

[3] *Biennial Report of Department of Public Instruction,* 1923–1924 (Territorial Government, Honolulu), p. 17.

public holidays, and many other days, are made the occasions for lectures and exercises in Americanization. One of the most popular courses in the University of Hawaii, and one compulsory for all incoming freshmen, is that in "American Institutions."

Considerable emphasis has been laid on vocational education in recent years. In 1925 the territorial legislature accepted the terms of the federal Smith-Hughes Act, thereby enabling the department of public instruction to accept federal aid. A readjustment of the federal vocational program had to be made so that more time could be devoted to those pursuits typically Hawaiian. Most stress is now being laid on the sugar and pineapple industries. In 1923 the territory instituted nutrition work, and since then it has maintained two regularly paid nutrition workers, who have enjoyed considerable outside private co-operation. The department took over in 1921, from the board of health, all dental hygiene work.

The organization and government of the public school system is according to the plan adopted in 1896. There is a board of six commissioners, and a superintendent of public instruction; all are appointed by the governor with the consent of the senate. Women are eligible to be commissioners, but there cannot be more than three at any one time. Ministers and members of holy orders are specifically made ineligible to appointment. The commissioners must be appointed, two from Hawaii, one from Maui, one from Kauai; and the rest may be from Oahu. In practice, the commissioners merely decide general policies and leave the superintendent in the position of managing director. He presides over meetings of the board, but he does not vote except in case of a tie.

In 1920 a committee appointed by the Bureau of Edu-

cation of the Department of the Interior made a survey of education in Hawaii,[4] and it severely criticized this organization of the department. The particular objection made was that board and superintendent are independently appointed, and separately responsible to the governor. This, it was said, tends to divide responsibility and to make the superintendent more liable to political influence. The idea of the committee was that the board of commissioners should be enlarged to seven, made supreme, and be assigned power to appoint a superintendent. Most unbiased people will agree to the suggestion.

The board of education and the superintendent have almost complete control over the entire Hawaiian educational system. The territorial department plans the course of study, chooses the textbooks, and hires all teachers, principals, and superintendents; it does, in fact, have entire command—with one exception: All matters of construction and maintenance of school buildings are in the hands of the counties.

Perhaps we can best get a picture of this organization if we observe how the school system is financed. About eight million dollars each biennium go to education in the Islands, passing through three funds. First, there is the teachers' salary fund. This is fed by a poll tax of two dollars and by receipts from general property taxes. Its amount is automatically fixed for the whole territory and for each school district and county, according to the number of children in attendance. Such a scheme is rather common throughout the United States. Act 232 of the Session Laws of 1925 stipulates that there shall be not

[4] *Survey of Education in Hawaii,* Department of the Interior, Bureau of Education Bulletin, 1920, No. 16 (United States Government Printing Office, Washington, D.C.).

more than one teacher for every thirty-five pupils in the elementary schools and one for every twenty pupils in the high schools, exclusive of principals of the larger schools, supervisors, and special workers such as those connected with vocational education. The monthly payroll for teachers shall not exceed $4.50 per capita for the number of pupils in grades one to eight, and $8.75 for those in grades nine to twelve. The money for this fund is collected by the treasurer and turned over to the superintendent of public instruction.

Next, there is the general school fund, the amount of which is fixed, every two years, by the legislature. This money all comes out of the general fund of the territory and is used for purposes of administration and supervision.

Third, there is the special fund for construction and maintenance of buildings. Here the complications set in. The budget for this fund is prepared by the superintendent of public instruction. He submits it to a committee of estimates, composed of himself, the mayor of Honolulu, and the chairmen of the three county boards of supervisors. Together they revise the budget and submit it to the governor. The governor relays it to the legislature. In the legislature the amounts for each county are carefully kept separate, and when the totals are approved they are merely added on to the county sums, to be collected, as we shall see, through the general property tax. When the money comes into the territorial treasurer's office, instead of handing it over to the department of education, he transfers it to the different counties for them to spend. In Honolulu the care of school buildings is under the city building inspector; in the three counties, it is under the county engineers.

This method of school management presents two anomalies. Usually the central government does not handle the details of educational administration. In most states there are school districts, cities, and townships, which are the units of control. They have a good deal of authority, under supervision of the state board; at least they hire their own teachers. But in Hawaii, the entire academic side is handled from Honolulu. Then, where we should least expect it, we find the counties coming into prominence. They control the buildings. Thus, whereas usually we have a vertical division of responsibility in school administration, each district looking after its own school, in Hawaii we have a horizontal division, each county merely looking after its own buildings. This latter arrangement has brought a long chain of evils. Politics is, of course, more prevalent in county government than in the department of public instruction, and it is common talk about the Islands that school janitors are chosen because of their political complexion. This condition does not go to produce administrative efficiency. But that is not all. The department in getting new buildings has to work through not only the legislature but also the board of supervisors concerned and the particular county officer in charge. Each proposal runs still another gauntlet, besides the increased inefficiency due to division of authority and responsibility. Within each school, instead of the principal being boss, as common sense would dictate, in case of a dispute with the janitor, the principal must go to the county government to get what he wants. The commission making the educational survey in 1920 described the arrangement as "unique" and "unfortunate." The whole matter of construction and care of buildings could easily be transferred to the territory. It would be to the advan-

tage of both the department of public instruction and the counties themselves to make the change.

Private schools.—We have now considered in some detail what is generally known as the public school system of Hawaii. It includes the regular elementary, junior high, and high schools. We shall examine the other activities of popular instruction carried on by the territorial government before we are done; but now it is necessary to observe that no description of the Hawaiian educational system is complete without mention of the private schools in the Islands. In 1887 Princess Bernice Pauahi (Mrs. C. R. Bishop), the last of the Kamehamehas, endowed a school for Hawaiian boys and girls, named after Kamehameha the Great. This school gives a full twelve years' instruction. Punahou School, one of the largest in the Islands, was established in 1842 by some Congregational missionaries, and still is under the nominal control of that church.[5] Iolani School for boys and St. Andrew's Priory for girls (both Episcopal), St. Louis College (Catholic), and Mid-Pacific Institute (Hawaiian Board of Missions) are the other more important private schools of Hawaii. These institutions early earned for themselves widespread fame, and a number of children were sent to them from California during the middle of the last century. Many families in the Islands now prefer them because of the higher standard of English which prevails in these schools.

An altogether different class of private schools, and one which has been much less fortunate in its relation to the territory at large, is the foreign language group. These institutions were organized, mostly by immigrants, to teach their children the language of their fathers; and they

[5] The Carnegie Corporation has recently made a grant of $50,000 to this school.

grew up side by side with the regular school system, the same children attending both. At the present time, there are one hundred and sixty-three foreign language schools, with four hundred teachers and twenty thousand pupils. Japanese schools were already established when the Republic of Hawaii became a territory of the United States, and since then Chinese, Portuguese, Korean, and Russian schools have come into existence. The Portuguese and the Russian schools have died out, and the Chinese and the Korean together have only thirteen hundred pupils. The main element is, therefore, the Japanese.

Most of the Japanese in the Islands came from the most backward portions of the Empire. They intended to return to Japan as soon as they made enough money. Some of them made the money and went back; others stayed; but they have thought of their children as Japanese subjects and have wanted them to know about things Japanese. Henry Butler Schwartz, for some time superintendent of foreign language schools, and one who has a good knowledge of the Japanese, describes the schools thus:

> They were voluntary organizations, regarded as belonging to the entire Japanese community. . . . . The affairs of the schools are controlled by school committees which vary in number from three to forty-five. These committees are chosen at a general meeting of the Japanese of the district at which all Japanese men have a vote whether they have children in the school or not. The larger committees are organized by the selection of a chairman, a treasurer, and secretary, who with one or two others form an executive committee for the transacting of ordinary business.[6]

Continuing, he says:

[6] Henry Butler Schwartz, "Foreign Language Schools in Hawaii," in *School and Society,* XXIV (January 23, 1926), 98.

> For twenty years the language schools in Hawaii used the same textbooks that were used in Japan; but in 1915 . . . . a series of special textbooks . . . . were prepared by taking the texts used in Japanese government schools, omitting a few chapters, and substituting therefor lessons dealing with American and Hawaiian subjects. . . . . Actually the books were nothing more than a Hawaiian edition of the Japanese government series. The pupil who uses them is supposed to be a Japanese and the Emperor is spoken of as "Our Emperor." The mythological history of Japan is related as actual fact. The sixth book of the series begins with the Imperial Rescript on Education, which is read in the Japanese schools on all holidays and is looked upon as the highest authority in morals.

Public officials have indicted the foreign language schools on four counts: They are detrimental to the health of the children, because, attending before and after school hours, children are exhausted during the day. They teach by rote, and thus impede the more modern efforts of the public schools. They are inefficient in that they do not teach the Japanese language so that it will be useful to their pupils; they do not teach it for purposes of translation. They affect the loyalty of the pupils to the United States. On these grounds the federal committee of 1920 recommended that the schools be completely abolished.

At a special session of the legislature in 1920, that body passed a law which has been several times amended but which in its present form provides essentially for the following: All foreign language schools must have a license and pay a fee in proportion to the size of the school. No one may teach in a foreign language school without a permit, and all instructors must be versed in the English language, in American history, and in American ideals. Foreign language schools cannot use any but a series of textbooks prepared by the department. No child may at-

tend such a school more than one hour a day, six days a week, and thirty-six weeks in any year.

The territory has had much trouble in enforcing the law. At first all the schools seemed willing to abide by it; then some started litigation, and an injunction was secured to prevent the department from putting its provisions into effect. The first cases were tried in the territorial courts, where the decisions were unanimous in favor of the law. Action was then begun in the Federal District Court, which granted the injunction, since sustained by the Circuit Court of Appeals for the Ninth District[7] and the United States Supreme Court.[8] The argument was that the law was a violation of the Fifth Amendment to the Constitution, which provides that: "No person . . . . shall be deprived of life, liberty, or property without due process of law." The cases which were argued on appeal did not bring the constitutionality of the act squarely before the Circuit and Supreme Courts. The question in each case was merely whether the District Court exceeded its authority in granting the injunction. They decided it did not. They did not go into the details of the law and test the validity of each provision. The decision of the Supreme Court was unanimous, and in an opinion by Mr. Justice McReynolds, obviously written in much haste, he thus expresses his objection to the law:

> The School Act and the measures adopted thereunder go far beyond mere regulation of privately supported schools where children obtain instruction deemed valuable by their parents and which is not obviously in conflict with any public interest. They give affirmative direction concerning the intimate and essential details of such schools, entrust their control to public officers,

[7] *Farrington* v. *Tokushige,* 11 Federal Reporter (2d series) 710.

[8] *Farrington* v. *Tokushige,* 273 United States 284.

and deny both owners and patrons reasonable choice and discretion in respect to teacher, curriculum, and textbooks. Enforcement of the Act would probably destroy most if not all of them; and certainly it would deprive parents of fair opportunity to procure for their children instruction which they think is important and we cannot say is harmful.[9]

If we may assume from this that the Supreme Court will probably declare the law unconstitutional when it comes before that tribunal in proper form, then certainly the Court took a very conservative view of the meaning of the Fifth Amendment. But that conclusion does not necessarily follow, and the Court expressly denies an intention of ruling out the whole act. It was a matter of very doubtful tactics to carry the legal question up in the form in which it was first presented, and we may hope that the question will again appear before the courts as to the final validity of the act.

All in all, the Hawaiian educational system has much to commend it. The 1920 commission found much to praise. The average teacher's salary is higher in Hawaii than in any state in the Union except New York and California. Hawaii has a higher value of school property per pupil than twelve states in the list. Hawaii has a higher per capita expenditure for schools than twenty-one states, though it is less than the average throughout the United States; and the amount spent per pupil is greater than in sixteen states, though less than the average for the country.[10]

Special institutions.—Three special institutions in the

[9] 273 United States 284, 298.

[10] *Biennial Survey of Education,* 1920–1921, Department of the Interior, Bureau of Education Bulletin, 1924, No. 14 (United States Government Printing Office, Washington, D.C.), II, 45, 47, 64, and 65.

Islands merit a brief notice. Hawaii has a small boarding school for the blind and deaf, in Honolulu, under the department of public instruction. It is located on a five-acre tract of land, and has five buildings, including two dormitories. Enrolment is about fifty. Then there are two industrial schools, one for boys, and one for girls. They are under a board of industrial schools of seven members, including the juvenile judge of the first judicial district and six members appointed by the governor and senate for four years. All offenders under eighteen come within their jurisdiction. The board appoints the superintendents of the individual schools, decides policies, and handles paroles, but leaves the rest to the heads of the two schools.

University and normal school.—Hawaii's higher educational facilities remain to be examined. First, there is a territorial normal school. It is under the department of public instruction. Its president is chosen by the territorial board, but once selected he is allowed to go very much his own way. The original aim of the institution was to give high school training and the equivalent of two years in college, but recently it has been extended to include a full four-year course. Credits from the institution are accepted on the mainland, and the school is a member of the American Association of Teachers Colleges. Eight hundred students register each year for residence work.

Then there is the apex of the whole system, the University of Hawaii, a typically modern institution modeled after the state universities. In 1907 the legislature created an institution under the name of The College of Agriculture and Mechanical Arts of the Territory of Hawaii, but that rather unhandy title soon gave way to the College of Hawaii. This was intended as a land grant college and received and still receives federal support. The first Bac-

calaureate degrees were awarded in 1912, the first advanced degree, Master of Science, in 1914, and the first honorary degrees in 1919. The school moved to a beautiful new site in Manoa Valley, then at the edge of Honolulu, in 1912. The 1919 legislature changed the name of the institution to its present one and organized it into a college of arts and sciences and a college of applied sciences. Rules of admission and courses in the University are comparable to those of a school of the same sort on the mainland. Faculty and assistants in 1927 numbered eighty-seven, and resident students about eight hundred and fifty. College life at the University resembles that elsewhere, and were it not for the predominance of students of other than Caucasian blood an observer would be hard put to it to find any difference between the University of Hawaii and any number of institutions in continental United States.

Libraries and records.—In concluding our examination of the formal agencies of learning in the Islands we have yet to consider the archives and the library and a few minor divisions devoted to similar work. Hawaii's rather romantic history has inspired much respect for her archives, and prior to the status of territory being assumed by the Hawaiian Islands, requirement was made of the then existing island government by the United States government that, if the national Hawaiian archives were to be permitted to remain in Honolulu, a fireproof building to store them in must be provided. This the territory did in 1906, and it has kept a force at work indexing and cataloguing the contents of the archives. Disposition of the records is controlled by a board of three commissioners, of whom one is the secretary of the territory and two are chosen by the governor. There is a librarian in charge. Much attention has recently been given to cataloging.

Libraries of the territory are under the department known as the "Library of Hawaii." It is governed by a board of seven trustees, three appointed by the governor and senate, three by the Honolulu Library and Reading Room Association (a private agency, which maintained a public reading room before the territory established a library), and one by the Hawaiian Historical Society. The main library is at Honolulu. Under boards appointed by the county supervisors are county libraries which are partly branch and partly original. There are seventy branches of the territorial library and twenty community-center branches.

In 1920 the legislature established a Hawaiian historical commission, of three members, appointed by governor and senate. Under their direction a history of the Islands has been prepared for use in the schools, several historical landmarks have been preserved, and work is now being done on the history of Hawaii in the Great War. In 1922 the legislature set up a legend and folklore commission to collect material officially in its particular field. Two volumes of this material have been published by the commission.

In our observation of the Hawaiian educational system we have seen how it hinges upon the department of public instruction, the various private schools, the board of industrial schools, the University, the commission of archives, the library of Hawaii, the historical commission, and the folklore commission. In the main, these institutions seem to have registered success. A brief glance at them suggests that their work could probably be done in more facile fashion by fewer agencies, but that is something which can be said of almost any function of the territorial government.

BIBLIOGRAPHY

Title V of Revised Laws of Hawaii, 1925, covers the subject of Public Instruction, and Title VI that of University, Libraries, and Archives. An excellent popular discussion of education in the Islands is K. C. Leebrick, "Education in Hawaii" in *Sunset,* LVIII (January 1927), 1–16. The *Survey of Education in Hawaii* (Department of the Interior, Bureau of Education Bulletin, 1920, No. 16) is a detailed, scholarly examination of the whole problem. The territorial department of public instruction publishes a *Biennial Report.* The best summary of the foreign language school situation to the date of its publication (January 23, 1926) is Henry Butler Schwartz, "Foreign Language Schools in Hawaii," in *School and Society,* XXIV, 98. Two pamphlets describing the foreign language school law have been published by the territory: *An Explanation of the Foreign Language School Law* and *Foreign Language School Relations.* The particular legal references for foreign language schools are Revised Laws of Hawaii, 1925, §§ 390–399, and Session Laws of 1925, Act 152.

CHAPTER XI

PUBLIC LANDS AND PUBLIC WORKS

Public lands.—Up to the middle of the last century the system of land tenure in Hawaii was feudal in nature, quite similar, in its general plan, to that in continental Europe during the tenth century. The ultimate title to all the territory was in the king. Upon his accession he parceled out the lands among his principal retainers according to their rank and influence, and when Kamehameha brought the Islands under his control he emulated William the Conqueror in taking all the land for himself and then dividing it among the faithful. No transfer could take place without the consent of the king; there was no such thing as a fee simple title. In general the land was divided first into large units, called *ahupuaas,* which contained a sea fishery (*kai*), some upland (*kula*), and some mountain land (*kuahiwi*). These *ahupuaas* were subdivided by the chiefs among their retainers, who subdivided their areas among their retainers, until the final tenant often held his land at fourth or fifth hand. The tenant paravail, lowest in the series, held his land at will and was subject to ouster at a moment's notice.

With the coming of the white man, it became evident that this plan would not serve. So King Kamehameha III, to his everlasting glory, decided that all claimants to land, including himself, should resign their claims, and that titles should be made out anew. This was done in what is known as the *Grand Mahele,* or Great Division, of 1848, from which all land titles in Hawaii are dated. The entire terrain was divided into three classes of land: one went to the chiefs, one was set aside for the support

of the government, and one went to the king personally. The ratios of sizes of these areas run about three to three to two. To supervise the procedure, there was organized a commission to quiet land titles. From 1848 to 1852 this body handled twelve thousand claims. By the latter date it became evident that something had to be done to speed up the work; so the legislature allowed the commission to grant lands by name, without troubling to survey the boundaries. From that step has come a great deal of trouble. To set definitely the boundaries of lands granted by name, a number of boundary commissioners were provided for. These offices are still in existence, though by now their incumbents have little work to do. Their number is not fixed by law, but the practice has been to have one for each judicial circuit.

When the revolution came along, the Republic took over the government and the crown lands, and on annexation to the United States title to them passed to the federal government. What to do with these extensive public lands was one of the major problems of the time. But the final solution was that, while title rests in the nation, the territory has their use and control. At the present time the public lands of the Islands comprise about 1,600,000 acres, classified as: agricultural lands, 70,000 acres; pasture lands, 624,000 acres; homestead lands unpatented, 34,000 acres; home and business sites unpatented, 900 acres; fish ponds, 350 acres; reservations for public purposes, 30,000 acres; forest reserves, 598,000 acres; and waste lands, 237,000 acres. This is as of June 1928. Administration of these lands is directed by a board of six members, appointed by the governor with the approval of the senate, and a commissioner chosen in the same fashion. The board is unpaid; the commissioner is paid. The board

passes on all matters of policy and all important land transactions; all else is left to the commissioner.

Public lands, except reserves, may be sold, leased, or exchanged. The land office decides on the sizes of the sections and surveys the land. Agricultural and pasture lands are sold only through homesteading, and are disposed of to citizens either by drawing lots or at an appraised value. Outright sales of property for residence purposes can be made in lots not exceeding three acres in area, and all such transactions are at public auction for cash or time payments. A great deal of the work of the board is in leasing public land. Practically all the agricultural acreage is rented through it, and many plantations have been built up on leased land. The income from this averages more than five hundred thousand dollars annually. Another source of public revenue is from selling water off public lands to the plantations.

The department has been making a hydrographic study of the Islands in conjunction with the federal government and the city of Honolulu.

Hawaiian homes.—Another department which has to do with the disposal of public lands is the Hawaiian homes commission. This body was established by act of Congress in 1921, and to it were appropriated very large tracts of land on the islands of Molokai and Hawaii, to be leased to members of the Hawaiian race on long-term agreements. The reason for this step carries us back into the history of the Islands. When agriculture first began to develop in Hawaii, the whites set about to get as much land as possible into their own hands. The Hawaiians, never astute business people, having little conception of the value of real estate, found themselves isolated from the land; and, drifting to the cities, they have been lead-

ing lives for which they are naturally unfitted, lives which they find unhealthy and unprofitable. As a result the race has been slowly, surely dying out. To allow the Hawaiians to return to the land and to start some farming on their own account, the idea was conceived of opening up some of the government land exclusively to Hawaiians. Prince Kuhio, then the delegate to Congress, was the chief instrument in bringing the plan to consummation.

Some interesting politics surround the passage of the "Hawaiian Homes Act" by Congress. A few of the sugar men had opposed the measure, but at this time they were anxious to get through an amendment to the Organic Act to allow a single corporation to own more than one thousand acres of land. They traded support for the Homes Act in return for approval for their wishes, and both were embodied in the same bill. The law, as far as we need to consider it, provides that certain areas on Molokai and Hawaii be set aside for homesteaders. To be eligible to live on this land, an applicant must be at least half Hawaiian. Grants may be made in units of from one-half of an acre to a thousand acres, depending on the quality of the land. It can be conveyed only under ninety-nine year leases, and no lease can ever pass into the hands of anyone less than half Hawaiian. A revolving fund of a million dollars was provided for the expense of the project, from which loans up to fifteen hundred dollars can be made to homesteaders. Money for the fund comes from leases of other public lands.

To administer the project there was provided the Hawaiian homes commission, composed of the governor as chairman; three members, appointed by the governor, who receive salaries of five hundred dollars a year; and an executive secretary chosen by the commission. The land

on Molokai has been opened to settlement. Everything was done to pave the way for the homesteaders. The commission made roads, built irrigation ditches, and cleared the land. Cost of clearing land is charged to the homesteaders. Choice of settlers is made on their application to the commission, and by it lands are assigned if it appears that the applicant is capable of farming them. The work of the commission is done largely by the executive secretary; under him is an agriculturist, who travels around and advises the settlers, and an engineer, who settles boundaries and handles water-supply work.

The first settlers went to Molokai in 1922, and in 1928 there were more than a hundred farms and three good-sized settlements, totaling nearly nine hundred people. So far, none of the homesteaders have deserted. They were chosen with care, and the commission has taken a very paternal and benevolent attitude toward them. Seemingly the movement has been a success. Practically all of the land had hitherto been regarded as waste land. It has now been brought into useful condition and made to produce, and it has furnished homes and opportunities for a large number of Hawaiians who probably otherwise would not have found them.

Survey department.—The territorial surveyor is appointed by the governor, with the consent of the senate, for four years. His department does all the surveying for the territorial governmental divisions, settles boundaries of public lands, and to do this has to settle boundaries of private claims. Aside from this, his functions are no different from those of hundreds of similar officers on the mainland.

Public works.—We come now to those territorial activities which, for lack of a better name, we call "public

works." Perhaps the term "engineering functions" would be more appropriate. It embraces such activities as construction and care of public buildings and public highways, reclamation of unhealthy and waste sections, and improvement and maintenance of harbors. These operations are carried on by three departments, but the same man directs the three divisions.

First, there is the department of public works itself. This is headed by a superintendent, appointed by the governor with the consent of the senate. It is his duty to handle the construction and maintenance of public buildings belonging to the territory. He is responsible for them from the blue-print stage until they are torn down. He supervises the mausoleum, or royal burying-ground, and establishes and cares for all public cemeteries. When counties, with the consent of the legislature, raise funds on the credit of the territory for the construction of roads, water, and sewer systems, all plans and specifications must have the approval of the superintendent, and he watches the work until its completion. Recently the department has been carrying on considerable work in the reclamation of waste lands in the Waikiki district. Finally, the superintendent of public works supervises the storage of explosives in the Islands.

In 1925 the legislature, in order that the territory might share in the federal road aid funds, created a territorial highway department, and made the superintendent of public works the territorial highway engineer. This was only a gesture, because he occupied that position before. Usually the territory does not embark on road-building programs to the extent that most states do. Certain especially important highways, however, are often taken over by the highway department of the territory.

Whenever counties borrow territorial credit, the department is a party to the arrangements.

The third department in the system is the board of harbor commissioners. This consists of five members, and the superintendent of public works is ex officio a member and the chairman. The other four members are chosen by the governor and approved by the senate. The harbor commission controls shores, streams, and harbors subject to federal jurisdiction; constructs wharves, piers, and landings; dredges harbors; and makes and enforces rules, not inconsistent with territorial law, in regard to vessels, pilots, and the landing of freight. Harbor masters, harbor police, pilots, and wharfingers of public wharves are under the board. Income from the various services performed by this department to private shipping amounts to more than a hundred thousand dollars a year. Hawaii has spent considerable money on her harbors and is very proud of them. The territory now owns fourteen piers in Honolulu harbor, and twenty-four scattered over the other harbors of the Islands.

Thus it is that the three engineering departments are, actually and for most intents and purposes, one department. They all are headed by the same executive; the clerical work of all three is done in one office; and engineers and other employees are transferred from one to another as occasion demands. Together they spend more of the territory's money than any arm of the territorial administration, except the department of public instruction. Each biennium they spend nearly seven million dollars. Most of their construction work is done under private contract. They themselves build only those things which cost less than a thousand dollars or are so indefinite of description that bids could not be satisfactorily asked.

BIBLIOGRAPHY

On the subjects of this chapter see the *Annual Reports of the Governor of Hawaii.* The law involving public lands will be found in Organic Act, § 73, and Revised Laws of Hawaii, 1925, §§ 437–578. Those who are in Hawaii should consult C. T. Bailey, "How the Territory of Hawaii Handles Its Real Estate," in *Honolulu Advertiser,* April 30, 1926, Part II, page 8, column 1, for a description of present public lands, and *Honolulu Star-Bulletin,* May 7, 1926, p. 6, for a summary of the history of land titles. The best discussion of the history of land titles is A. C. Alexander, "Land Titles and Surveys in Hawaii," in *Hawaii Planters' Record,* XXIII (August 1920), 67; this has been published in pamphlet form also. A careful description of the origin of land titles is given in an article by C. J. Lyons, in *Report of the Committee on Foreign Relations,* United States Senate, Senate Executive Document 45, 52d Congress, 2d session (United States Government Printing Office, Washington, D.C.), II, 1694.

The act creating the Hawaiian homes commission was Public No. 34, 67th Congress, also to be found in Revised Laws of Hawaii, 1925, §§ 530–551. The Hawaiian homes commission makes an annual report to the governor. The hearings on the Congressional act are to be found in *Hearings before the Committee of Territories,* House of Representatives, 67th Congress, 1st session, on House Resolution 7257, June 9–10, 1921.

For the public works department see Organic Act, § 75, and Revised Laws of Hawaii, 1925, §§ 798–908. The survey department is provided for in Organic Act, § 78.

CHAPTER XII

CONSERVATION, AGRICULTURE, AND BUSINESS

Conservation of natural resources.—In this chapter we shall address ourselves to three functions of government which, though not closely related as functions, nevertheless are so united through the organizations which perform them that it seems advisable to consider them jointly. The first is the conservation of natural resources. Hawaii is not endowed with any oil or minerals. The chief demand on government attention is forest conservation, both for the protection of the forests themselves and for the conservation of the water supply. At the present time the forest reserves of the Islands comprise one-fourth of the total land surface of the main islands of the group. Reserves are set aside by order of the governor and are protected and controlled by the board of agriculture and forestry, whose organization and other work we shall subsequently describe. The board has set out more than a hundred thousand trees in the denuded areas.

The territory has also provided for a fire marshal to supervise fire fighting throughout the Islands. An observer could watch the government for twenty years and have little notion as to who the fire marshal is. He is the territorial treasurer. Why those two offices were united no one knows, except perhaps the legislators who passed the law. The only guess we can make is that the treasurer is also insurance commissioner and the lawmakers thought he might as well be fire marshal also. It requires six closely printed pages in the Revised Laws of 1925[1] to

[1] Revised Laws of 1925, § 3463.

describe his powers and duties, but about all he actually does is to make recommendations as to how to prevent forest fires and to have his assistants inspect buildings.

In 1925 the legislature passed a new code of fish and game laws, placing more rigid restrictions on amateur and particularly on commercial fishing. Until 1927 there was a fish and game commission of independent jurisdiction, but in July of that year its work was assumed by the board of agriculture and forestry which is presently to be noted. From time to time game birds and fish are imported into Hawaii, notably salmon, rainbow trout, and pheasants. On the north side of Oahu there is a farm to facilitate the fish and game work. One of the most difficult tasks connected with regulation of fishing is the investigation of certain ancient fishing rights which are claimed as coming down from grants made during the monarchy.

Promotion of agriculture.—To foster and regulate agriculture the University of Hawaii, in addition to its regular courses and classroom experiments, conducts an experiment station at Waikea, on the island of Hawaii, and also operates the experiment station of the Association of Hawaiian Pineapple Canners.

But the most active branch of the government in the encouragement of agriculture is the territorial board of agriculture and forestry. Strangely enough, the existence of this board is not at all in accordance with the Organic Act. That instrument provides for a "commissioner of agriculture and forestry," but the territorial legislature went Congress one better and provided for a "board of commissioners of agriculture and forestry of five members, who shall be appointed by the governor with the advice and consent of the senate." They serve, without pay, for four-year terms. The work of the board in con-

nection with fish and game and forests we have already discussed. Under the board there is a division of entomology, which studies insect pests in co-operation with the Hawaiian Sugar Planters' Association experiment station. There is a division of plant inspection, which inspects all agricultural products coming into the Territory of Hawaii and all fruit, plants, and vegetables shipped from the port of Honolulu. They thus investigate about a million and a half horticultural packages each year. Lastly, there is a division of animal husbandry, which inspects and makes rules regarding the importation of all animals into Hawaii and conducts a laboratory to fight animal diseases. Just passing notice need be given the board of veterinary examiners, three in number, appointed by the governor and senate. This board licenses members of that profession. It has little power and seldom exercises it.

One agent of the government, who is separate from all the rest within the field, is the sugar expert. He is chosen by the governor without the approval of the senate. The exact duties of this officer are a little difficult to ascertain. He has no standing in law except the provision made for such an officer in the regular legislative appropriations. It seems that he advises the territorial departments on sugar matters, does vocational work in the public schools, arbitrates some differences between planters, and aids small planters in various small ways. It is very likely that this office could be placed under the board of agriculture and forestry to the advantage of all concerned.

Another phase of agricultural encouragement is represented in the territorial farm loan plan. This was developed in 1919 for the particular purpose of aiding the small farmer. Money may be borrowed on real estate, up to five thousand dollars, for three purposes: (1) purchase

of agricultural lands; (2) permanent improvements; and (3) liquidation of debts incurred for the purchase of land or for permanent improvements. Simple interest at six per cent is charged, and no loan may be made for more than sixty per cent of the value of the security. Borrowers must be citizens of the United States and actual residents on agricultural land. The plan is governed by a board of three members appointed by the governor with the consent of the senate. By law, the attorney-general, the treasurer, and the commissioner of public lands are made eligible to appointment, and they have been continuously selected, so that the salary of one hundred dollars a month which attaches to membership is generally considered as an ordinary emolument of each of those three administrative offices. Most of the work is done by an executive secretary. All deputy land agents and all tax assessors and deputies are deputies of the farm loan board. Five are regularly employed on the outlying islands and are paid salaries.

The farm loan plan is popular among the small farmers, as was intended. Nearly a million dollars has been loaned out, half of which is still in use. The territorial plan has several advantages over the federal loan scheme, one of which is that the federal government will loan only on fee simple property; whereas, as has been pointed out, much of the farming land in Hawaii is leased, homestead property.

Each autumn the territory holds a fair in Honolulu to encourage interest in agricultural pursuits. To conduct this, there is a fair commission of five selected by the usual method—governor and senate. The commission is unpaid, except that its chairman acts as executive officer and receives one hundred dollars a month.

Regulation of business.—No state government would consider itself completely equipped without a public utilities commission, and the Territory of Hawaii is up to date in this respect. The commission is of three members, appointed by the governor with the consent of the senate. Any person is disqualified from membership who is a salaried officer of the territory or of any division thereof, or who has an interest in any public utility. Members are awarded a salary of ten dollars a day for the days they are at work, but their income must not run over eighteen hundred dollars a year. This agency has control over all public utilities except steam roads and telephones, which are under the Interstate Commerce Commission of the United States government. There seems to be no good reason for these two exceptions; Congress has simply neglected to pass over to the territory the control of steam roads and telephones, and it is commonly thought that any such step would be opposed by the transportation and telephone people, presumably because their regulation would probably be more strict if handled by the local government. The public utilities commission of Hawaii does concern itself with the street car company of Honolulu and the various electric power companies over the Islands. Sometimes the commission bestirs itself and plays an important rôle in the life of the territory, but not often.

The supervision and regulation of corporations, banks, insurance companies, and trade-marks is in the hands of the territorial treasurer and his assistants. We need not go into the details of the laws covering these different businesses; it suffices to say that the treasurer registers all corporations; he grants charters subject to the approval of the governor, and according to territorial law; he is responsible for the enforcement of law in connection with

corporations; and he receives annual reports from all but charitable corporations. Most of this work is actually done by the deputy treasurer. The treasurer is also territorial bank examiner. For this work he appoints a deputy who also handles the audits of county books. All insurance companies, foreign and domestic, must register with the treasury department and receive certificates of authority. The department may revoke any certificate on the grounds of violation of the insurance law or of unsafe financial condition. Every insurance agent must have a license. The treasurer keeps on file rules and by-laws of all companies doing business in the territory and copies of all of their form contracts. Lastly, the treasurer is the registrar of trade-marks. These are not the only duties he has which are somewhat extraneous to his office, and we shall have more to say about him in the next chapter.

The legislature of 1923 provided for aircraft inspectors to be appointed by the governor to enforce the laws regarding commercial aviation. Until recently there has been little commercial aviation in Hawaii; therefore there has been little law to enforce and no power to enforce it. The position of the aircraft inspectors was obvious. But focusing the attention of the nation on Hawaii as the goal of adventurous cross-ocean flyers enhanced the local interest in aviation, and the legislature of 1927 created a territorial aëronautical commission. Five members are appointed to the commission by the governor. They have power to license aëronauts and mechanics, and to approve the airworthiness of aircraft and flying equipment.

In each county and the city-and-county there is an industrial accident board composed of five members. These boards, however, are territorial agencies, for they

are established by territorial law and are appointed by the governor with the consent of the senate. They have no connection with the local governments. The law of the territory in regard to industrial accidents is well defined.

> If a workman receive personal injury by accident arising out of and in the course of his employment or by disease approximately caused by his employment . . . . his employer or the insurance carrier shall pay compensation.[2]

This applies to nearly all territorial and county employees. To guarantee compensation to injured workmen, all employers (except the territory and the counties) are required to qualify in one of four ways before they can start operations: (1) They may deposit with the territorial treasurer enough bonds or other security satisfactory to assure the accident board that they will fulfill their obligations in case of accident. None has done this so far. (2) They may carry "guaranty insurance," which differs from regular insurance in that the assurance company merely declares that, if the employer fails to compensate an injured workman, the company will do so. This mode of qualification has been followed by some foreign corporations operating temporarily in the Islands. (3) The employer may carry regular workmen's compensation insurance; and by far the greatest number do this. (4) Finally, they may furnish satisfactory proof of their solvency and the board, if convinced, may excuse them from further qualification. Some of the larger corporations have been allowed to qualify in this way.

None of the industrial accident boards can act unless a claim is made to it by the injured employee; then there

[2] See Revised Laws of 1925, §§ 3604–3667.

may be one of three modes of procedure. First, the two parties may settle the dispute by voluntary agreement, which can be enforced by the board. Second, the claim may be decided by a commission of arbitration composed of one representative chosen by each party and one by the board, from the decision of which there is appeal to the board. This method has seldom been used. Third, the dispute may be settled before the board itself. This is a quasi-judicial procedure, and the board can levy costs if an appeal or claim is unreasonable. It has never done so. Decisions of the board may be appealed to the circuit court.

It is the duty of the different agencies to follow up and enforce their decisions. Effectiveness in this and the judicial branches of their activities depends upon the personnel of the boards.

Another branch of administration once useful in regulating the industrial situation is the board of immigration, labor, and statistics. This division was created by the legislature in 1911 to superintend immigration into the Islands. It does nothing and has done nothing for a long time.

In the chapter on health and welfare we discussed the regulation of the medical and allied professions. There are two other callings which are controlled by the territory. Accountants are regulated by the board of accountancy, which is composed of not less than three nor more than five public accountants of recognized standing, "each of whom shall have been actively engaged in practice not less than three consecutive years immediately preceding their appointment,"[3] and must have the degree of C.P.A.

[3] Revised Laws of 1925, § 3673.

(Certified Public Accountant). Members are appointed by the governor with senatorial consent. The board exercises the right of granting the title of C.P.A. in Hawaii, and gives examinations once a year, though the policy has been to waive examination in case of those coming from places where restrictions are the equivalent of those of Hawaii.

There is also a board of registration for professional engineers, architects, and surveyors, which has been in authority since 1923. The act giving this board existence is modeled on the Arizona state act. Board members are seven in number, appointed in the usual way, two of whom must be professional engineers and two architects. Members are required to have practiced their profession at least nine years immediately preceding their appointment. The board has power to grant and revoke certificates, though all its acts must be approved by the governor. So far the policy has been to grant licenses without question to those who have practiced their calling for six years or have graduated from a recognized college and have had two years' experience. The expectation is that standards will be raised from time to time as the board becomes more of a fixture in the government.

BIBLIOGRAPHY

Our references again cause us to recur to the *Annual Reports of the Governor of Hawaii.* The laws governing the various topics of this chapter may be found as follows: Board of agriculture and forestry, Revised Laws of Hawaii, 1925, §§ 579–644; fire marshal, Revised Laws of Hawaii, 1925, § 3463; fish and game commission, Revised Laws of Hawaii, 1925, §§ 722–730, Session Laws of 1925, Acts 92 and 243–245; farm loan board, Revised Laws of Hawaii, 1925, §§ 646–657; public utilities com-

mission, Revised Laws of Hawaii, 1925, §§ 2189–2210; corporations, banks, and insurance companies, Revised Laws of Hawaii, 1925, §§ 3331–3603; industrial accident boards, Revised Laws of Hawaii, 1925, §§ 3604–3667; board of accountancy, Revised Laws of Hawaii, 1925, §§ 3668–3682; and board of registration for professional engineers, architects, and surveyors, Revised Laws of Hawaii, 1925, §§ 3683–3694. The treasurer publishes a *Biennial Report* giving account of his activities as fire marshal and as supervisor of corporations, banks, and insurance companies. The farm loan board and the board of registration for engineers publish annual reports.

CHAPTER XIII

FINANCE

Income.—The annual budget of Hawaii is about ten million dollars. In order that we may have before us a picture of how the territory gets its income and may be in a position to compare its methods with those of the states on the mainland, the following has been taken from the report of the auditor of Hawaii to the legislature of 1927.[1] The figures represent the percentage of total income derived from each source, in Hawaii and in the average for the forty-eight states of the Union.

	Average of 48 States	Hawaii
General property taxes	24.1%	47.90%
Special property, and other special taxes including income	15.9	21.07
Poll taxes	0.3	1.74
Licenses	34.3	1.30
Special assessments	2.1	2.22
Fines, forfeits, and escheats	0.5	.08
Subventions and donations	9.7	1.97
Interest, rents, and highway privileges	4.5	13.07
Sales of public lands		1.96
Earnings of general departments	8.0	5.32
Earnings of public service enterprises	0.7	3.37
	100.0%	100.00%

The first thing to observe in this table is that Hawaii gets almost twice the percentage of income from the general property tax that the states do. The territory still uses the general property tax as its chief financial crutch, and,

[1] Page 5.

in addition, taxes personal property. Personal property is not taxed in many of the states. A great difference will be noted between the relatively large amount collected by the states for business licenses and the proportionally small amount collected by Hawaii. Most of the state incomes from "licenses" are corporation taxes, and corporations are not taxed as such in Hawaii to nearly so great a degree. In the Islands most of the large businesses are agricultural. These companies own large sugar and pineapple holdings and are, therefore, caught in the general property tax. The larger amounts collected in Hawaii in the property tax and the larger amounts collected in the states in licenses seem to indicate a great difference in policy, but actually the difference is not so great as would appear, for the corporation wealth in Hawaii is largely real property. We notice also that the states receive more than four times the percentage of income from subventions and donations that Hawaii does. Most of the state income through this class is from the federal government for highways. Hawaii has not, until recently, been included in these doles and does not even yet benefit as much as the states do. The greater proportion of income for Hawaii from rents, interest, and highway privileges is due to the extensive leases of public lands.

To see the Hawaiian tax system in its proper perspective, it is necessary that we first observe some of the minor taxes. There is a poll tax of five dollars per person, revenue from which is divided between certain school purposes and road construction. Then there is the inheritance tax which is levied on all property passing from "any person who may die seized or possessed of the same while resident of the territory," and on all property within the territory at the time of the decease of one resident out-

side. The tax is arranged on the basis of three scales: (1) If the property goes to a near relative of the deceased, the rate varies from 1½ per cent on amounts from $500 to $20,000 up to 3½ per cent on all amounts over $250,000. (2) If the property goes to any other person, except an alien or a non-resident in the United States, the rate begins at 3 per cent for amounts from $500 to $5,000 and graduates up to 6½ per cent on all amounts over $100,000. (3) If the beneficial interest passes to an alien, there is a flat tax of 10 per cent on all amounts above $500. Customary exemptions are allowed for charitable purposes and the like. An estimate of the property is made by an appraiser appointed by the circuit judge.

An income tax was first adopted in the territory in 1901, Hawaii being one of the first jurisdictions in the country to raise revenue by that method. The present rates are 2 per cent on amounts from $1,000 to $5,000, 2½ per cent on amounts from $5,000 to $10,000, 3 per cent on amounts from $10,000 to $20,000, 3½ per cent on amounts from $20,000 to $40,000, 4 per cent on amounts from $40,000 to $70,000, 4½ per cent on amounts from $70,000 to $100,000, and 5 per cent on all over $100,000. A married man is allowed $2,000 exemption, and for each dependent other than his wife $200 additional. Revenue from this source amounts to almost one-fifth of the territory's income.

The chief source of revenue for the territory is, of course, the general property tax. The same is also true of the counties. Both taxes are levied together, at one time, and both are collected by the territorial treasurer. In other words, the general property tax is a source used jointly by the territory and the counties and city-and-county. Collections for local as well as territorial purposes

are made by the treasurer. The policy has been to use this tax as a stop-gap to furnish money for any purpose for the territory or local government not otherwise provided for. When the income from all other sources is calculated for both the territories and the counties, the remaining sum is turned over to the treasurer to be raised in this tax. Thus, the general property tax, as it is collected, goes usually into nine different channels. It goes to defray: (1) county and city-and-county current expenses; (2) county and city-and-county permanent improvements; (3) interest and sinking fund payments for all territorial bonds issued for territorial and county and city-and-county purposes; (4) interest and sinking fund payments for general county and city-and-county bonds; (5) special school fund expenses; (6) general school fund payments; (7) school teachers' salaries; (8) cost of assessing and collecting taxes; and (9) all appropriations made by the legislature which are not covered by other sources of revenue.

The treasurer sets about his work in this way. He calculates each county rate separately. He works always on the basis of previously assessed valuations. Starting on the territorial end of the task, he adds together the amounts necessary for the general school fund, for the cost of assessing and collecting the taxes, and for all general appropriations not covered by other sources of territorial revenue. This total he allocates to the different counties in proportion to the assessed value of their property. Thus in 1927, of the general territorial burden Honolulu bore 61.21 per cent, Maui 13.11 per cent, Hawaii 17.54 per cent, and Kauai 8.11 per cent. The treasurer now has four separate totals, one for each county. To these totals he adds the amounts fixed for each county,

according to law, for school teachers' salaries, and those amounts voted by the legislature, for each county, for maintenance and construction of school buildings. Now he is through with the territorial necessities. He must know the sinking fund requirements of the different counties for retirement of bonds issued on territorial credit. To meet these he is compelled by law to add the necessary amounts to each of the four county totals.

In the meantime the counties themselves have been at work. The various boards of supervisors have decided how much money they are going to spend. From this amount is subtracted the income expected from fines, fees, licenses, and the like. What is left uncovered the counties request the territorial treasurer to collect within their jurisdiction. They forward to him the balance which will not be met by their purely local sources of revenue. He adds these amounts to the already achieved four totals; and then the treasurer has the amounts which he must collect by a general property tax in the separate local units. He divides this amount to be raised by the assessed valuation of the property within the given county, and arrives at its tax rate. If he then feels so disposed, the treasurer can add to these rates one-half of one per cent to cover any deficits arising from past years or present necessities, providing he has the approval of the governor. This is usually used in case the income tax falls short, or for emergencies.

It is obvious that the tax rates of the different counties vary. In 1928 the Honolulu rate was 3.526 per cent of valuation, Maui 3.712 per cent, Hawaii 4.136 per cent, and Kauai 3.359 per cent. The same rate applies to both real and personal property, and, of the two, real property yields slightly more. Under normal conditions the two

greatest factors in fixing the tax rate are school teachers' salaries and county current expenses. Together they absorb about half of the general property tax. Revenue from this source has multiplied about thirteen times from 1901 to 1928. The increase from 1917 to 1928 was about 400 per cent. The average tax rate for the four counties has increased 205 per cent in the ten-year period, while the assessed values increased only 60 per cent.

For purposes of administration, the territory is divided into tax districts corresponding to the counties. The first district is Honolulu, the second Maui, the third Hawaii, and the fourth Kauai. There is a tax organization in each district headed by an assessor, who is appointed by the treasurer with the approval of the governor. All deputies are chosen by the assessors with the approval of the treasurer. Each organization assesses, levies, and collects all taxes within its district.

In each district is a tax appeal court. It is composed of "three suitable persons" appointed by the governor, who are paid ten dollars a day for their services. Appeals are made to this court regarding assessments levied by tax officials, and from it to the supreme court. For the entire territory, there is a board of equalization to adjust assessments and decide on tax policies, composed of the treasurer and the assessors of the various counties.

Work of the taxation officials is difficult in the Islands because of the rapidly changing land values. Hawaii is just now experiencing a semi-boom. Taxation maps have been prepared covering most of the island of Oahu, but little has been done with the other islands. An entirely new system of handling tax work has recently been installed by the territorial commission on public accountancy. We need not go into it in detail here except to say that it

introduces the most modern and approved methods of tax billing, collecting, and assessing.

Expenditure.—Not until 1925 could territorial funds be compared with those of the states. Then, for the first time, reports were classified according to the directions of the United States census bureau. This was part of the work of the commission on public accountancy, whose labors we shall consider more in detail at the end of this chapter.

The report of the auditor to the legislature for 1927 shows that, whereas the states spent (in 1925) 31.16 per cent of their total income for capital outlays, Hawaii spent (in 1926) 22.27 per cent of hers. For interest, the figures are 4.19 per cent for the states, 8.19 per cent for the territory. The percentages for what remains, classified as "expenses for operation and maintenance of general departments," are according to the following table. The years are 1925 for the states, 1926 for Hawaii.

	Average of 48 States	Hawaii
General government	8.3%	9.21%
Protection to person and property	5.4	2.24
Development and conservation of natural resources	5.5	8.06
Health and sanitation	2.4	13.41
Highways	13.9	
Charities, hospitals, and corrections	16.3	7.91
Education	38.4	55.27
Recreation	0.3	
Miscellaneous	9.6	3.87
	100.0%	100.00%

We can now see the great degree of police work and highway construction which is left to the counties. The

larger amount of money devoted to health in Hawaii is due to the importance of this branch of governmental activities, but more money is spent on education in Hawaii because of the fact that counties handle only a limited amount of educational funds.

Debt.—The indebtedness of the territory is limited by the Organic Act. In a given year the issuance of bonds cannot exceed one per cent of the assessed value of the property at the last assessment, and the total indebtedness may not be more than ten per cent of the assessed value. On June 30, 1928, the outstanding indebtedness was $28,585,000, which is 7.30 per cent of the total valuation of real and personal property in Hawaii. At the present time the per capita indebtedness of the territory is more than six times that of the average of the forty-eight states. Two causes go to produce this situation. The territory has been undergoing a period of heavy capital outlay; and the territory performs many more functions for its people than do the state governments.

All bonds issued by the territory must have the approval of the President; they may not be issued to run more than thirty years; and there are also certain limitations as to their purpose.[2] The treasurer is the one in charge of all the bond work for Hawaii. It is interesting to note that it costs less for the treasurer to take the bonds to New York and there affix his signature than to sign them in Honolulu and pay the insurance on the signed bonds to New York. Recently the territory has been vexed over the fact that it is paying more for interest than it should. About eight per cent of the budget of Hawaii goes for this purpose, twice the percentage of state budgets for

[2] Organic Act, § 55.

interest purposes. One reason ascribed for this is that the treasurer has been issuing bonds long before the money is needed. It is safe to say that the evil will be speedily corrected.

Sinking fund methods have been used to provide for the retirement of the bonds. Section 1182 of the Revised Laws of 1915 provided that the treasurer must "transfer from the treasury . . . . such a sum of money" as with interest will retire the outstanding bonds when they become due. It was postulated by the wording of the law that the money in the sinking fund would be used to purchase territorial bonds or buy other securities yielding equal interest. But this cannot be done. In order to buy territorial bonds before they are due, the treasurer has to pay a premium. The restrictions on other investments are so rigid that the best interest the territory has been able to average is a little over two per cent. On top of all that, some of the first money set aside for sinking fund purposes was used to retire previously issued bonds.

Treasurer and auditor.—The two financial officers of Hawaii are a treasurer and an auditor. The duties of the treasurer have been indicated in this and previous chapters. In brief, he handles the money of the territory, he is registrar of conveyances, corporation commissioner, registrar of trade-marks, bank examiner, insurance commissioner, and fire marshal. In addition he issues all marriage licenses, either in his own office or in those of deputies throughout the Islands. He audits all county books once a year. The treasurer is obviously a very important officer. That his duties are very heterogeneous is likewise obvious. He is appointed by the governor, with the consent of the senate, for four years.

The auditor is selected by governor and senate. He

has the duties usual to such an office. He keeps the fund and appropriation accounts and also a set of proprietary books, similar to those of commercial houses. He is the general watchdog of the treasury. In case of any difference between him and any officer of the government as to an appropriation, appeal is allowed to the supreme court of the territory. In general, territorial auditors have taken their jobs routinely. An auditor might be expected to develop new bookkeeping systems and new financial methods, but he has not done so. Auditors have been passive rather than active.

The budget.—Preparation of the budget for the territory is under a bureau of the budget. Under the Organic Act the governor is made responsible for the preparation of estimates, and the legislature of 1925 provided for a bureau, headed by a director appointed by the governor, to aid in preparing the budget. According to the law, that document must contain a report of payments and receipts for the last biennial period; estimates for the same for the current biennium; recommendations for payments and receipts for the ensuing period; a balanced statement showing the condition of the treasury at the end of the last biennial period, the one in progress, and at the end of the ensuing period; all essential facts regarding the bonded indebtedness of the territory; and a few other details. Estimates are submitted to the bureau by the different department heads not later than November 15 of the year preceding the meetings of the legislature. In intervals between sessions the bureau is expected to make studies of the governmental organization. The director of the bureau is the only important officer in the territorial government whose appointment by the governor does not require senatorial confirmation.

Reorganization.—Reference has several times been made to the commission on public accountancy. That body was authorized by the legislature in 1923, and its object has been to establish uniform budget and accounting systems for the territorial and county governments. The commission was given complete power to devise such systems, and, with the approval of the governor, to install them. The aid of the Institute for Government Research of Washington, D.C., was enlisted in the work, and, as a result, Mr. Henry P. Seidemann, chief consulting accountant, went to Honolulu to be technical director for the commission. The choice of Mr. Seidemann was a fortunate one. He had been assistant to General Dawes and General Lord in the federal budget bureau, and is the author of a *Manual of Accounting and Reporting for the National Government.*[3] The commission, the legislature, and the governor gave him *carte blanche* to do whatever he wanted. His first task was to classify the accounts of the territorial government. He devised the first organized budget document the territory had ever had and helped create the bureau of the budget. After much investigation and planning, the new accountancy system went into effect in the territorial government on July 1, 1925. The most important innovations of the new plan were reclassification of accounts and the placing of the books on an accrual rather than a cash basis. The entire system of tax assessment and collection was done over; there had been an impression in the territory that the tax office was accustomed to listen to the whispers of politics. Finally, the county governments were tackled and a modern system of budgeting and accounting was devised for them.

[3] Published by the Institute for Government Research, Washington, D.C.

The work of the commission, in the hands of Seidemann and his assistants, has been done in masterly fashion. Their methods have come like an ocean breeze on a hot summer day. Not only are the records of the territory and the counties now kept more accurately and less expensively, and reports of the governments made comparable with similar ones on the mainland, but the entire group of islands has been given a fiscal rejuvenation.

BIBLIOGRAPHY

The laws governing the finances of Hawaii are found in Organic Act, §§ 54–55; Revised Laws of Hawaii, 1925, §§ 1241–1283 and 1425–1476 (governing the treasurer and his duties); Revised Laws of Hawaii, 1925, §§ 1284–1424 (governing taxation); Revised Laws of Hawaii, 1925, §§ 1477–1485 (governing expenditure of public money); and Session Laws of 1925, Act 56 (establishing budget bureau). The treasurer and auditor issue *Biennial Reports* to the legislature, which are recapitulated in the *Annual Reports of the Governor of Hawaii.* An excellent statement of the financial affairs of the territory, together with a summary of the work of the commission on public accountancy, will be found in *The Reorganization of the Financial and Accounting Methods of the Territory and County and City Government of Hawaii,* which was a paper by Henry P. Seidemann read at the meeting of the National Association of State Auditors, Comptrollers, and Treasurers, November 1925, at Miami, Florida, published in pamphlet form by the Institute for Government Research (Washington, D.C.); and in the *Report of the Commission on Public Accountancy* for the period May 15, 1924, to January 31, 1927, published by the territory.

CHAPTER XIV

LAW AND LEGAL ADMINISTRATION

Hawaiian law.—Before the coming of the white man with his solemn countenance and his ponderous legal tomes, Hawaiian statutes were enacted orally, proclaimed by heralds, and preserved in the memory of specially trained persons—living statute books. The first printed law was published in the Islands in 1822. The first compilation was made in 1842. In 1845, 1846, and 1847 were promulgated the first laws on lines strictly modern in form as well as in substance; these were largely declaratory of what had already been evolved, and have been the basis of the Hawaiian system of law ever since. A modern penal code was adopted in 1850. Until 1892 the courts were authorized to decide cases in accordance with the principles of natural law and reason, but actually they were accustomed to follow the English common law. In 1892 the common law was adopted, except as changed by statute, precedent, or usage.

Today we find the legal system of Hawaii grounded in the English common law, with no more changes due to local conditions than are apparent in most states and with fewer changes than in some states. We cannot take time to go into the new rules introduced by statute. It may be appropriate, however, to lapse into the vernacular of the lawyer and point out a few of the more important differences which the courts themselves have evolved. For one thing the Supreme Court has held that the application of a principle contrary to the common law to one question, prior to the adoption of the common law in 1892, justifies the subsequent application of that principle to a different

question after 1892.[1] Most of the concrete departures from the old rules have occurred, as we might expect, in the law of real property. Thus it is that a seal is not necessary to a mortgage, nor to a deed, nor to a bond; dower is allowed in leaseholds of long duration; a freehold estate can be created *in futuro;* a conveyance to two or more persons creates a tenancy in common; the rule in Shelley's case has been rejected; a conveyance by a disseizee is valid; choses in action are assignable, as are also lessors' rights of entry; estates tail and estates conditional are not allowed; the word "heirs" is not necessary to raise a fee simple title; and the common law rule against perpetuities is not in force. In the field of criminal law there are no common law offenses, but the common law can be used to interpret technical words in penal statutes. A principle of the civil law has been introduced into the law of torts, in that damages are allowed for death due to a wrongful act. There has been no fusion of law and equity; the same judges sit for both, but as distinct courts. The doctrine of presumed prejudice from error has been given little weight.

No attempt has ever been made at general codification of the law, but every ten years the statutes are revised and compiled. The last revision was in 1925. The work was then done by an excellent and scholarly commission and is quite free from errors. The laws are bound in two volumes; volume one contains the Constitution of the United States, the Newlands Resolution, the Organic Act, and the general laws of the territory; volume two contains franchises, bond issues, and acts of a temporary nature. Together they include about 2,500 pages. One peculiarity

[1] See note to Section 1, Revised Laws of 1925.

will be noted in the statutes, in that old Hawaiian directions are frequently used in defining boundaries. Thus, in Honolulu the four directions are: *mauka* ("toward the mountains"), north; *makai* ("toward the sea"), south; *ewa* ("toward the town of Ewa"), west; and *waikiki* ("toward the beach"), east.

Attorneys are admitted to practice by the supreme court. The Bar is divided into two classes, those who can practice in all courts and those who appear in district courts only. Standards of admission to practice are about the same as those to be found in the states, but the attorneys who are allowed to practice only in district courts are usually of very small ability. Most of them are Hawaiians with only an elementary education.

Law enforcement.—The chief law-enforcement officer of the territory is the attorney-general. He is chosen by the governor, with senatorial approval, and holds his job for four years. His duties are in no wise different from most attorneys-general. He prosecutes for the territory. He advises the governor on legal matters. Recent executives have followed the policy of asking his advice before signing new laws. The attorney-general has supervision over the county attorneys; they are his deputies, and he can remove from their jurisdiction any case involving territorial law.[2] He does not often exercise this power.

According to territorial law, the high sheriff is under the supervision of the attorney-general, but these two officers have very little to do with one another. The governor appoints the sheriff for four years; the attorney-general is seldom consulted as to his selection, and actually the high sheriff's only important contact with the at-

[2] *In re Bevins,* 26 Hawaii 570, 604.

torney is that he must make a formal report to him once a year.

On the whole it would seem that this relation between the prosecuting and the incarcerating branches of the machinery of law enforcement serves no useful purpose. There are reasons why the sheriff should be subordinate to the attorney-general, and there are reasons why he should be independent. There is no good reason why he should be nominally responsible but actually not. Another useless complexity in this same machinery lies in the existence of five boards of prison inspectors, one for each judicial district. They consist of three members, each appointed by the governor for two years, and Section 1544 of the Revised Laws of 1925 declares: "Each board shall have power to supervise the discipline and government of all the prisons and jails within the judicial circuit for which such board shall be appointed." Thus the board of prison inspectors for the first district, the island of Oahu, oversees the territorial prison and the city jails of Honolulu. The one for the second district oversees the jail of Maui County, and so forth. Obviously the board of the first district is by far the most important, for under it are the territorial institution and the Honolulu institution, the latter doing more work than all the other county agencies together.

In carrying out their functions, these boards make recommendations for paroles, which are granted by the governor; they make rules as to discipline in the penal institutions; and they visit the prisons and jails periodically. It is clearly advantageous to have an agency from which the governor asks advice as to pardons and paroles. But why have five of them? It is obvious that with the sheriff at the head of the territorial prison and in some

confusion as to his relation with an alleged superior officer, and, as we shall see, with popularly elective sheriffs directing the county jails, it is not an easy task to find a logical place for five boards of prison inspectors which have rule-making powers logically belonging to the superintendent of the prisons and jails. If the sheriffs refused to enforce the rules of the boards, the boards of prison inspection could do nothing about it. If unsatisfactory conditions arose in the jails, the sheriffs could blame the boards, and the boards could pass the buck back to the sheriffs.

As if the situation were not confused enough, there is still another board to be given consideration. This is the prisoners' compensation board, composed of the board of prison inspectors of the first judicial district, plus the attorney-general, plus the warden of the Oahu prison, who is a deputy of the high sheriff. This body is supposed to set rates for territorial prison labor when the inmates are hired out to private companies on contract.

In brief, this whole branch of law-enforcement machinery is a fine example of bad governmental organization. It is built on the notion that the way to get a thing done is to divide the job up so that no one can overdo it, then hire a watchman to oversee the performers and another watchman to watch the watchman. That idea was popular in the eighteenth century; and so was the flintlock rifle. Today it is a commonplace of administrative efficiency that the way to get things accomplished is to set up one agency, give it power to do its work, and fix responsibility so that if the work is not done there can be no hedging. The high sheriff ought to be either independent of the attorney-general or not independent; the prison inspectors ought either to be given power to dictate to the sheriffs or to be wiped out of existence and replaced

by a new parole board, preferably the latter; the prisoners' compensation board should be done away with, for it does little or nothing now.

The courts.—Formal organization of the judiciary in the Islands dates from the constitution granted by Kamehameha III in 1840. There was then provided a supreme court, composed of the king, who acted as chief justice, the premier, and four judges chosen by the lower house of the legislature. Each of the governors of the outlying islands appointed inferior judges to serve under these. In 1852 the judicial plan was amended by the creation of a supreme court of one chief and two associate justices, a series of circuit courts, and a number of district courts. District judges were appointed by the various governors, but the other justices were chosen by the king and privy council. This plan of organization has been the basis of the Hawaiian judiciary ever since.

The use of the jury was first introduced in 1825, on the advice of Lord Byron, cousin of the poet; but it was not until 1842 that panels were drawn for civil and criminal cases generally. The jury was the regulation twelve, but verdicts could be given by a vote of nine. In a criminal case against a Hawaiian or a civil case between Hawaiians, the jury was composed of Hawaiians; in cases affecting foreigners it was composed of foreigners; and in civil cases between foreigners and Hawaiians it was composed of foreigners and Hawaiians in equal numbers. For the purpose of jury duty foreigners included all persons of foreign descent, aliens or citizens. Hawaiians included part-Hawaiians as well as pure Hawaiians.

On annexation of the Islands to the United States, the principal changes in the judiciary system, says former Chief Justice Walter F. Frear,

consisted in the transfer of the appointment of the supreme court and circuit judges from the President, now governor, of Hawaii with the consent of the local senate to the President of the United States with the consent of the national senate; the reduction of the tenure of the supreme court judges from life to four years and of circuit judges from six to four years; the introduction of the grand jury; the requirement of unanimity in the verdicts of the trial juries; the abolition of racial and mixed juries; and the creation of a distinct federal court, namely a district court, having also the jurisdiction of a circuit court.[3]

The present territorial supreme court has one term a year, beginning on the first Monday in October and extending, usually, until the next summer. It comprises three judges. In case of a vacancy on the bench a circuit judge can be assigned by the chief justice to serve temporarily. The judicial authority of the court is largely appellate, its original jurisdiction being confined mainly to claims against the territory, writs of habeas corpus, and extraordinary writs to other courts. Appeals can be taken to the United States Supreme Court or to the United States Circuit Court of Appeals whenever the cases involve more than five thousand dollars, but cases first taken to the Circuit Court cannot be subsequently appealed to the Supreme Court, and all cases involving federal questions may be taken to the Supreme Court but not to the Circuit Court of Appeals. The territorial supreme court can make rules of procedure, not contrary to law, which apply to all local courts. Its opinions have been published for more than eighty years.

Next below the supreme court we find the circuit courts. The territory, as we have said, is divided into five judicial districts, each of which has a separate circuit. The

[3] Walter F. Frear, "The Hawaiian Judiciary," in *Independent,* LXII (May 2, 1907), 1023–1028.

first includes the island of Oahu, the leper settlement, and all the islands not within any other circuit. The second includes Maui, Lanai, Kahoolawe, and most of Molokai. West and East Hawaii constitute the third and fourth circuits, respectively, and circuit number five comprises Kauai and Niihau. The first district has four judges; all the rest have one. Each judge holds separate court.

Circuit courts have general jurisdiction, trying criminal law, equity, probate, and divorce cases. They sit at regular intervals, with a jury unless the jury be waived. Rules for their own procedure may be made by the courts, provided they do not increase the cost of the trial. The chief justice of the territory designates one judge of the first circuit to hold a land court from time to time. Another judge of the first circuit devotes himself to domestic relations and juvenile cases. The juvenile judge of Honolulu, and the other judges sitting as juvenile courts, are authorized to appoint probation officers, under whose supervision they may place delinquents under eighteen who are convicted of any offense punishable by not more than two years' imprisonment. Juveniles of that age must be kept separate from older offenders, says the law, and must be tried at a separate time.

The lowest courts are those held by the district magistrates, of which there are now twenty-nine in the Islands. These district judges are selected by the chief justice; they hold office for two years, but they may be removed in the meantime by the supreme court. Magistrates are required to be electors of their districts and must have passed the examination and become eligible to practice in district courts. Their authority includes exclusive civil jurisdiction in cases up to fifty dollars, concurrent civil jurisdiction (with the circuit court) up to five hundred dollars,

and criminal jurisdiction over misdemeanors. By consent a criminal may be tried in the district where he is arrested, if that is different from the one in which the offense is committed. If the offense is not a serious one, he may be summoned to appear, as in a civil case, and is not arrested. There are no juries in the district courts.

The salaries of the supreme court justices and the circuit court judges are paid by the United States government; those of the district magistrates are paid by the territory.

The federal court of Hawaii consists of two judges, who sit separately, and a regular United States attorney, who is affiliated with the court. Appeals from the federal court go to the United States Circuit Court of Appeals of the Ninth Judicial District.

There are two essential differences between the judicial organization of Hawaii and that of other territories. In other cases, the federal and territorial courts have been one and the same, the United States judges merely hearing local cases as a side line. Never before have there been separate local courts of original and appellate jurisdiction in the territories. It has been the custom to have just one set of judges, who sat separately as superior courts of original jurisdiction and sat together as an appellate court.

The Hawaiian judicial system seems to have given satisfaction, at least in the Islands. The courts are practically up to date in their work. In 1925, 1926, and 1927 the supreme court decided 71, 85, and 71 cases, the circuit courts 2,995, 3,004, and 3,099 cases, the district courts 16,507, 16,111, and 19,397 cases, and the federal court 711, 428, and 594 cases.[4] The supreme court justices have

[4] *Annual Report of the Governor of Hawaii,* 1928, pp. 120–124.

been able and learned men. Presidents have followed the advice of Island leaders in making appointments. Usually the recommendations of the local Bar Association are final, and that body has demonstrated an altogether praiseworthy capacity to forget local squabbles and unite in favor of really eminent men for judgeships. In the spring of 1926 a Democrat was appointed to the territorial supreme court by President Coolidge, on the recommendation of the Bar Association, which was composed almost altogether of Republicans and was headed by a man who was chairman of the Republican central committee.

BIBLIOGRAPHY

For a brief statement of the differences between the English common law and the law of Hawaii, with a collection of cases, see the note to § 1 of Revised Laws of Hawaii, 1925. A good discussion of this whole subject will be found in Walter F. Frear, "The Hawaiian Judiciary," in the *Independent,* LXII (May 2, 1907), 1023–1028. For the history of Hawaiian judicial organization see Henry C. Chambers, "Constitutional History of Hawaii," in *Johns Hopkins Studies in Historical and Political Science,* 1896, XIV, 1–38. The statutes in point are: attorney-general, police, and prisons, Revised Laws of Hawaii, 1925, §§ 1486–1574; judicial organization, Revised Laws of Hawaii, 1925, §§ 2210–2290, and Organic Act, §§ 81–83.

CHAPTER XV

HONOLULU GENERAL GOVERNMENT

Plan of the government.—More than half of the people in the territory live on the island of Oahu. With 113,000 in Honolulu proper and 67,000 in the rural districts, the city-and-county is forced to deal with municipal problems of no mean proportion. Aside from the usual tasks of local regulation, construction and care of streets and highways, police and fire protection, building inspection, and care of school buildings—which the legislature has placed upon the counties and the city-and-county—Honolulu furnishes water for its people, carts away garbage, inspects food and markets, maintains parks, playgrounds, and zoos, and has an extensive system of city street lights.

The government of Honolulu is a "city-and-county." But it is more city than county. Two-thirds of its people are city folk and most of its problems are city problems. Were it not for the fact that its legislature is called a board of supervisors, and its police officer is a sheriff, the government would bear little resemblance to a county organization. The city charter is to be found in chapters 118 to 122 of Revised Laws of 1925. It has never been referred to the people of the city. The general plan of the Honolulu government is known to political scientists as the "weak mayor" type.

Undoubtedly the dominant factor in the conduct of the city's affairs is the board of seven supervisors. Members of this board are elected at large, and by law they are required to have been voters of the city and county for at least two years. Vacancies are filled by appointment of the mayor on confirmation by the board. The supervisors

must meet at least twice a month, and a majority of the board constitutes a quorum.

Rules of the board provide that it shall be organized into seven standing committees of three members each: (1) finance; (2) public works; (3) police and electric system; (4) schools and public buildings; (5) parks and playgrounds; (6) health and sanitation; and (7) miscellaneous. To aid in its routine work, the board employs a committee clerk. His is a semi-political job.

Every bill or resolution must pass three readings, on the last of which it must be approved by a majority of the board. If the bill involves any disposition of public property or expenditure of money over five hundred dollars or imposes important new duties on the citizenry, readings must be on separate days, and the bill must be published for three successive days before it becomes law.

It requires four and a half closely printed pages to display Section 1738 of Revised Laws of 1925, which outlines the powers of the board. In general, they are about those of the average city council. The board is given authority to make laws affecting city departments; to approve appointments; to appropriate money; to acquire and dispose of property; and to pass ordinances on a long list of subjects, none of which may provide a fine of more than one thousand dollars or imprisonment for more than one year; and to punish its own members for violating its rules. The ordinance-making power has not been of great importance, but the power to approve appointments has been an avenue through which the board has enabled itself to penetrate every detailed activity of the administration. For several years past no one has been appointed to municipal service, except unskilled day laborers, without being formally approved by the board.

In addition to the supervisors, the elective officials of the city are: (1) a mayor, who is paid six thousand dollars a year and devotes his whole time to the city's business; (2) a city clerk, who is paid forty-eight hundred dollars a year and who handles the city's records and is clerk of the board; (3) an attorney, who is paid six thousand dollars a year and does the legal work of the city; (4) a treasurer and (5) an auditor, who receive forty-eight hundred dollars each to handle the finances of the city; and (6) a sheriff, who is paid forty-eight hundred dollars as the head of the police department. The other branches of the city administration are directed by the following officers and boards: chief engineer of the fire department, chief engineer of the public works department, superintendent of electric lights, city physician, superintendent of the municipal market, building inspector, plumbing inspector, superintendent of parks and playgrounds, leader of the Hawaiian band, city planning commission (seven), shade-tree commission (five), recreation commission (five), civil service commission (three), board of electrical examiners (five), board of plumbing examiners (three).

All of the officers and most of the board members are chosen by the mayor with the approval of the supervisors. A few of those on the commissions are ex officio, as we shall see when we take up each one for discussion. The mayor is the chief executive. He is chosen biennially by the electorate. He presides over meetings of the board of supervisors. He can veto its bills. But he has no vote and the board can override his veto with five supervisors concurring. He may suspend any supervisor or elective or appointive officer for wilful neglect of duty. He fills vacancies for unexpired terms. But all his appointments must be approved by the board. In a great emergency he

is entitled personally to authorize the expenditure of not more than two hundred dollars of the city's money.

There is such a delicate balance of power between the mayor and the board that it is difficult to be sure just what the position of the mayor is. His power of veto is effective, but his appointments have been so regularly checked by the board that that power has amounted to little. Actually he has been more potent in the legislative than in the administrative field. All goes smoothly in Honolulu as long as both the mayor and a majority of the board are of the same political complexion; but when they oppose each other, things are in a very bad way indeed. The operation of the city government in 1925 and 1926 shows what can happen when worse comes to worst. Three vacancies occurred in the board, and the supervisors would approve no one whom the mayor would appoint. For a time there were six members on the board, three on one side and three on the other. There was continual deadlock with no way to break it. If the mayor had had either the power to appoint supervisors without confirmation or power to vote in case of tie, the stalemate could have been overcome. As it was, the city administration will show the scars of that legislative battle for many years to come.

Finances.—The annual budget of the city is just above $10,000,000. Of this, about thirty per cent goes for construction and maintenance of streets and highways, twenty per cent to public service enterprises such as the water works, sixteen per cent to construction and maintenance of public school buildings, and eight per cent to protection of persons and property. About forty per cent of this budget in 1928 came from bond sales for capital outlays. This is more than usual. The rest was distributed as follows: the general tax, thirty-eight per cent; vehicle tax,

six per cent; public service rates, six per cent; business licenses, seven per cent; and miscellaneous, seven per cent. The finances of the city are organized into sixty-five different funds. The general fund amounts to approximately thirty-five per cent of the total budget, the permanent fund to sixteen per cent, and the combined street improvement fund to fourteen per cent. The permanent improvement fund is required by law to receive five-twelfths of the taxes collected by the territorial treasurer; that is, for every seven dollars he collects for the general expenses of the city, he must also collect five dollars for the permanent improvement fund. So far this has been more than the city needs, and the fund has been overflowing. In 1926 the city passed a new business license law requiring licenses of 281 different business and professions, but the territorial supreme court declared the act invalid in so far as it applied to physicians, dentists, and lawyers.[1]

In the offices of treasurer and auditor we find nothing new or unusual. The treasurer collects the city's money, issues licenses to business houses and for automobiles, and pays money on the warrant of the auditor. The methods of both offices have been entirely overhauled by the territorial commission on public accountancy. A new budget system was introduced. The original estimates of the departments are referred to the committee clerk; he revises them and turns them over to the finance committee; and the finance committee recommends them to the board.

Personnel administration.—There are approximately one thousand forty-two people employed by the city-and-county of Honolulu. Of these, only the two hundred ninety-six employees of the fire and police departments

[1] *Territory* v. *Mann*, 29 Hawaii 422.

have been under civil service. Territorial law requires that no person be appointed or removed from either of these departments without the approval of the civil service commission. This rather general admonition has been enlarged upon by a city ordinance which requires examinations for appointment to be "of such a character and relate to such matters as will fairly test the capacity and fitness of the persons to discharge the duties to which they seek to be appointed." Examinations may be in either English or Hawaiian. They usually include physical tests. From a reading of the questions asked, one gathers the impression that the examinations would serve to cull out the applicants who are hopelessly unfit. Beyond that they are ineffective. Appointments may be made, by the sheriff or chief engineer of the fire department, from the list of those receiving a grade of sixty-five per cent or more. Differing from the usual rule that choice must be made of one of the three highest in the examination, the Honolulu method allows plenty of play for personal or political preference. Usually if there is a really valid political reason for getting rid of anyone, it can be done. In truth, no one takes the civil service plan very seriously. While most of the appointments to the fire department seem to have been on merit, such is not the popular opinion about the police department.

From 1917 to 1927 there was a system of pensions in vogue for policemen, firemen, and bandsmen. Any member of either of these three departments who served for twenty-five years was entitled to retire on half-pay. Any member who was disabled in the course of his duty was entitled to a pension of not less than one-fourth nor more than three-fourths of his salary. The pension system, if we might flatter it by calling it a system, was administered

by the mayor, the treasurer, and the auditor, sitting as a pension board. That the whole arrangement was unscientific is a platitude. But in 1927 the territorial retirement plan was extended to include the counties and the city-and-county, and now municipal employees are protected by a pension plan equal to the best known.[2] The reason bandsmen were included was to give them the advantage of the long-service pension, for experience showed that many of the musicians devoted their whole lives to the band and were destitute in old age.

In our study of the general organization of the Honolulu city government we have found it dominated by a board of supervisors, and headed by a mayor who has a constant struggle to maintain his proper place. Before making any estimate of the government, let us examine its administrative problems and functions and compare it with the governments of the various counties.

BIBLIOGRAPHY

A more detailed description of the Honolulu government was written by the author and published in a series of twenty articles in the *Honolulu Star-Bulletin,* beginning June 12, 1926; subsequently the series was published in pamphlet form by the *Star-Bulletin.* The mayor of Honolulu is supposed to publish an annual report, but none has been issued since December 1922. The territorial law setting up the county government will be found in Revised Laws of Hawaii, 1925, §§ 1717–1891. The new county retirement system was provided by Act 251 of Session Laws of 1927.

[2] For description of the territorial retirement plan see p. 116.

CHAPTER XVI

HONOLULU ADMINISTRATION

Elective officers.—When the municipality in Honolulu was established in 1905 the offices of sheriff, attorney, clerk, treasurer, and auditor were the most important in the city government. So they were made elective by the people. Now, with the city engaged in caring for streets, electric lights, water systems, and garbage disposal, it is the heads of these other activities who hire the most men and handle the most money. It is the city engineer, the superintendent of parks, and the city health officer who face the greatest problems, not the treasurer, nor the attorney, nor the clerk.

The truth is that the treasurer and the auditor perform only very routine tasks and that all the clerk does is to take down minutes of the activities of the board of supervisors and to prevent the city files from getting too badly mixed up. The attorney has more responsibility. Upon him falls the duty of prosecuting violators of both territorial and city laws. While his daily work is not complicated, a man of imagination in the office might conceive it his duty to undertake affirmative campaigns to induce law and order.

In the main, there seems to be no good reason why at least the auditor, the treasurer, and the clerk should not be chosen by some other method than public election. It is unnecessary to bother the voters with the choice of such routine administrators. Most people, however, feel that in the case of an office as full of potentialities as that of attorney it is wise to elect the man who is to fill it. The attorney does have to determine policies of importance,

even though he does not spend so much money, or hire so many men, or come into contact with the citizenry so often as do others in the city government.

Protection of person and property.—We come now to that function of the municipal public service which has to do with the protection of persons and property. "Civilization," says Thomas Edison, "consists of a lot of people in one place—plus a policeman." It was not until cities came into existence that a regular police force was necessary, and we always associate the policeman with city government. So in Hawaii. The territorial government, as we discovered, maintains only a small force to escort criminals to and from the prison and to serve court processes. Most of the protective function falls to the local governments.

The Honolulu police have all the usual problems of law enforcement with a few more besides. Their chief difficulty comes from that one fact which we foresaw would meet us time and again in this study: the intermixture of races. At least two-thirds of the city consists of people whose contacts with American law and polity have been inconsiderable. It is not that the other races are more wicked than Americans, but that their notion of what is legally right and wrong does not always coincide with that of the legislature. The Filipinos have a propensity for gambling, the Chinese violate the narcotic laws, and they all have difficulty with the traffic code. It is the same problem which large eastern cities of America have faced with their immigrants, only on an aggravated scale.

In Honolulu there are about two hundred police officers. Accepting the normal standard[1] as twenty officers

[1] W. B. Munro, *Government of the United States* (The Macmillan Company, 1925), p. 620.

for every ten thousand people, Honolulu is about average. In Honolulu proper, the police have the semi-military organization which is common in most cities.

Aside from the regular duties of making arrests and serving court papers, the police license chauffeurs, collect taxes on "for hire" cars, and act as inspectors to see that all business houses have licenses.

Most of those in the department are Hawaiians. This is due partly to political influence and partly to the fact that the race seems to have a natural bent for the policeman's job.

The first concerted attempt at fire protection in Honolulu was the initial organization of a paid fire department on March 1, 1893. Fire hazard has always been very great in the city. At the present time Honolulu is ranked in the fifth class by the National Board of Fire Underwriters. Such a status is very low in comparison with cities of the same size on the mainland. The National Board made a survey[2] of Honolulu in 1924 and commented on the fact that, while the hazard was rather great, losses had been very small. This was attributed to good luck. At the present time the department is organized into seven companies. There are about one hundred men in the fire-fighting force, operating under the two-platoon system on the basis of twenty-four-hour shifts. There is a fire boat, owned and operated by a private company, which is subsidized by the city-and-county and under the direction of the chief. A fire-alarm system with two hundred and fifty boxes scattered all over the city is maintained by the superintendent of electric lights.

[2] *Report on the City of Honolulu* by the committee of Fire Prevention and Engineering Standards of the National Board of Fire Underwriters, No. 355, August 1924.

Building inspection is one of the essential elements of fire prevention. According to the Revised Ordinances of Honolulu, 1923, "No person or . . . . corporation shall erect, repair, change, alter, or reroof any building or structure or excavate any cellar or lot for building purposes within the city and county of Honolulu unless he or they shall first obtain a permit for their work from the building inspector." Exceptions are made in cases of changes of less value than one hundred dollars which do not materially affect the building. The city is divided into fire, industrial, residence, and business districts. The National Board declared the code to be well enforced but recommended that the building department be placed under civil service regulations. We have noted before that the building inspector has not only the job which his title indicates but also the one of looking after school buildings. The politics which inevitably accompanies the hiring and firing of janitors can too easily pervade the other side of the office in its purely technical work.

Most of the water for fire-fighting comes from artesian wells. The fire department takes it from the same mains which supply the houses. We shall have more to say about the Honolulu water system when we take up the function of water supply, but we may note in passing the comment of the National Board on this phase: "Water system reliable, but as operated quantities available for fire protection seriously lacking in all high value portions of the city."

Having thus disposed of the activities of the city in connection with protection in so far as they are performed by the police, fire, and building departments, we have left to consider only plumbing and electrical inspection. Before any plumbing is put in, builders in Honolulu must

file plans and specifications with the plumbing inspector for his approval. Finally, all plumbers must get a license from the board of plumbing examiners, and all electricians from the board of electrical examiners.

Conservation of health.—The health work of the city is under a physician, appointed by the mayor. He looks after the indigent sick. Honolulu has no hospital of its own, but co-operates with the various private hospitals. At police headquarters is a small first-aid station. Some of the burden of food inspection is taken from the territory by the city physician. There are extensive city ordinances governing the protection of food from dust and flies, handling of food by diseased persons, sanitation of market floors, sale of "iced fish," and so forth.

As a part of its work in connection with the indigent, the city-and-county makes a number of substantial contributions to private institutions. Several of the contributions have been made mandatory by the legislature. One large tuberculosis hospital receives $250,000 annually. Usually the policy of public contributions to private and unregulated charities has little to recommend it as a permanent arrangement, and the city physician of Honolulu has long advocated construction of a municipal hospital.

Disposal of city waste is under the department of public works. It is not possible to know what amount of sewage is disposed of by the Honolulu city system, but it is probable that it is much over the average amount per capita of that of most American cities. There are four principal methods of taking care of this kind of waste: (1) the storm sewer system, which carries off the surface waters from the streets; (2) a system of cesspools, which serve four large residential districts; (3) the Kalihi system, which transports the sewage from the district

of that name and by gravity pull empties it into Kalihi Bay; and (4) the main sewer system, which serves most of the city. Wastes are pumped about half a mile out to sea. In 1925 the Honolulu water and sewer commission, a temporary body, was appointed by the governor to make a study of the water and sewer problems of the city. Under its supervision the main sewer system has been almost entirely rebuilt within a period of two years.

The city also collects garbage. Service to residences is free except where there is more than can be carried on the regular load. Business houses pay a stated amount per cubic foot.

Highways.—Highway construction and maintenance is also under the department of public works. Inasmuch as this division is concerned with many of the functions we shall presently describe, we may as well observe its organization now. It was established in May 1927, superseding three large and important departments—that of the city engineer, of water and sewers, and of garbage. As now organized, the public works department is headed by a chief engineer and is divided into four bureaus: (1) water supply and sewers; (2) road maintenance, street cleaning, and garbage; (3) plans, surveys, and improvements; and (4) water revenue. Almost two-thirds of the money in the city budget goes through this department.

Honolulu does not attempt to build its own roads, but lets the work out on contract. But the city is responsible for the construction of all highways except those for which federal aid is received. The latter are constructed by the territory. In 1928 there were three hundred and fifty miles of paved and asphalt macadam roads on the island of Oahu. The city does all repairing of streets.

Most of the work of the department of public works

is pure engineering and is of no immediate interest to us. It maintains a municipal garage in which are stored and repaired all of the city's automobiles.

Honolulu makes no attempt to furnish electric lights except for street purposes. This function is under a separate department, headed by the superintendent of electric lights. A water power plant just outside of Honolulu furnishes enough electricity for most of the year, but during the summer months, when there is not enough water to run the plant, the city purchases electricity from the Hawaiian Electric Company, a private corporation.

Water supply.—The only public utility which the city of Honolulu owns and operates is the water system. The question of adequate water supply is the most serious municipal problem that the city has to face. All goes well as long as there is normal rainfall, but let there come only a slight drought and the city is in straitened circumstances. The territorial commission appointed to investigate the problem estimated in 1926 that the city would have reached the absolute limit of its growth as far as water is concerned by 1940. The present consumption is more than two hundred and sixty gallons a day for each individual in the city. Being on an island, Honolulu cannot go hundreds of miles into the mountains and pipe water down in a huge aqueduct, as San Francisco, Los Angeles, and New York have done. Furthermore, all over the island of Oahu are large sugar plantations which demand water for irrigation. Moreover, the commission estimated that there has been a wastage of at least fifty per cent through defective mains underlying the city. As a result, an extensive plan of reconstruction has been prepared, now in process of being carried out, which will conserve the supply and give the city a fairly large margin of safety.

Most of the water comes from artesian wells. In Nuuanu Valley, just outside the city proper, there are reservoirs to impound surface waters to be kept for reserve in case of fire. The city is equipped with reservoir capacity of 562,000,000 gallons and four pumping stations to lift the water to the higher levels of the island.

Care of school buildings.—In connection with our survey of the territorial educational system we noted that the construction and care of school buildings is left to the counties and that in Honolulu they are under the building inspector. In that office, the tail wags the dog, for most of the time of the building inspector is spent supervising the janitors of the school buildings. There are more than thirty thousand public school pupils in Honolulu, using nearly eight hundred different schoolrooms. The yearly construction budget for public schools is about a million and a half dollars. All this must be looked after by the inspector. Such a situation presents a decided need for some reorganization. It has been many times suggested that the territory take over all care of buildings. That would be wise. But if the territory declined, the city ought to create a new department or else transfer the task of caring for school buildings to the department of public works. A building inspector ought to be a technical expert, and ought not to be bothered with the politics and petty troubles of caring for school buildings.

Parks and playgrounds.—Honolulu has thirty public parks, a zoo, and one strip of beach devoted to public baths. Nine of the parks are playgrounds. Control over these institutions is peculiarly scattered. First, there is the department of parks and playgrounds, headed by a superintendent, who has a force of about forty men to keep things in order. Then there is the shade-tree commission,

which looks after the arboreal growth on city property with its own force of workers. Then there is the recreation commission. This body hires all the playground supervisors, organizes swimming meets and excursions, maintains the junior police to watch traffic in outlying corners, and does numerous other things of like nature.

It is anomalous, to say the least, to have the grounds of a park cared for by one department, the trees by another, and the children who run around in the park under the trees by still another. The obvious reason for the existence of the three commissions is that at one time and another certain public-spirited citizens have become interested in these branches of city activity and the municipality has wisely created offices for them in order to capitalize their enthusiasm. The system has worked well, but it is not likely to last as a permanent arrangement.

Other divisions.—Since 1913 there have been various attempts to furnish a good publicly owned market for Honolulu. At first there was one established jointly by the territory and the United States government. It did not succeed. In 1919 it was handed over to the city as a white elephant. For the past few years it has lost no money for the municipality; but it has not been a success.

Along with most mainland cities, Honolulu is looking to the future through a city planning commission. The city has been growing rapidly for several years and the work of this commission is just beginning to show itself in the arrangement of new districts.

BIBLIOGRAPHY

In addition to references listed for the previous chapter, see the report of the National Board of Fire Underwriters as mentioned in the note on page 196, above.

CHAPTER XVII

COUNTY GOVERNMENT

Plan of government.—We have already seen that the counties occupy a much more important position in Hawaii than they do on the mainland, because they are the only agencies of local administration. There is no town government. Of the three counties that of Hawaii is the most populous. It includes Hilo, the second largest city in the Islands, which has 12,000 people, and also 67,000 in rural Hawaii; Maui has 46,000 and Kauai 35,000.

All the county governments are constructed on an identical framework provided by the territory in chapters 116 and 117 of Revised Laws of 1925. Each is governed by a board of supervisors, five in number on Maui and Kauai, and seven in number on Hawaii. The supervisors are chosen by single member districts on Kauai; on Hawaii they are chosen three from the west part of the island and three from the east, with one, the chairman, elected at large; and on Maui they are all chosen at large. In all three cases the executive officer of the government is entitled "chairman and executive officer of the board of supervisors." This individual is the one elected at large on Hawaii; he is specially designated in the election on Maui, while on Kauai he is elected by the board itself. Outside the supervisors there are the same five elective officials which we found in Honolulu: the clerk, who keeps records, is secretary to the board, and supervises elections; the sheriff, who is head of the county police; the attorney, who is the legal officer; and the treasurer and the auditor, who perform the usual duties.

The salaries of county officers are fixed by territorial

law. The schedule varies with the individual counties, those on Hawaii being the highest and those on Kauai the lowest. The following table shows the salaries of elective officers in the county governments:

	Hawaii	Maui	Kauai
Chairman of the board..	$4,200	$4,200	$3,600
Members of the board...	1,200	900	900
Sheriff	4,200	4,200	3,600
Clerk	3,300	3,000	3,000
Auditor	3,600	3,300	3,000
Attorney	4,200	4,200	3,600
Treasurer	3,300	3,300	3,000

All county officers are chosen biennially, and elections come in odd-numbered years.

Until 1927 no attempt had been made by any of the counties to provide for the retirement of its employees. During the territorial legislative session of that year an act was passed extending the territorial pension system to the counties. As was true with the territory, county employees then in service could join or not as they chose, while employees hired thereafter were made members of the retirement system automatically.[1]

Hawaii County.—Having noted the common characteristics of all the counties, let us examine each one and note what peculiar problems and organization it may have. Hawaii being the largest, let us take that first. The chief administrative business of Hawaii County is concerned with building inspection, water supply, highway construction and maintenance, fire-fighting, and hospital maintenance. Supervision of all new construction is under the building inspector. Differing from Honolulu, the Hawaii

[1] For a description of the territorial retirement plan, see p. 116, above.

building code is quite loose and inexact, leaving to the inspector a great deal of discretion. His task is to provide against fires and earthquakes. The latter are of very common occurrence on the island. Hawaii maintains five waterworks systems over the county. The one in Hilo is, peculiarly enough, under the supervision of the building inspector.

The problem of water supply in Hilo is not so embarrassing as that in Honolulu, because the town is smaller, the island is larger, and it gets more rain. At that, Hilo uses more than two hundred and fifty gallons per person per day. Most of the supply comes from springs and is impounded in three reservoirs, which hold a total of 2,200,000 gallons. No attempt is made to purify the water. The outlying systems are under the county engineer.

Highway construction is also under the engineer, but highway maintenance is under nine road overseers, one for each of the nine districts, who work directly under the board of county supervisors. These road overseers are distinctly political personages, their appointment being frankly a matter of barter and trade. Most of the highway construction is by contract, and even in their execution the supervisors take an active part. Aside from his work in connection with water supply and road construction, the engineer supervises the school janitors (though they are hired and fired by the board of supervisors); he plans the construction of new county buildings (though it is customary for the supervisors themselves to let the contracts and to oversee construction); and he maintains the county buildings. It is evident that the engineer must be a very versatile man. Even at that, any calm enumeration of his duties does not give a complete picture of his job. In the summer of 1926, the Engineering Association

of the Territory of Hawaii, in deciding to petition the legislature to define the duties of the Hawaii county engineer, said: "He is subject to the whims and fancies of individual supervisors, and is even required to act as official 'Greeter' for supervisors from other counties and for distinguished visitors to the island."[2]

Since 1917 the county has had a purchasing agent who has been, as the present incumbent phrases it, "mostly a bluff." It is optional with most officials whether they buy through the purchasing agent or not, and it has suited most of them not so to buy. The fourth department of the government is headed by the county physician. Most of the work with the indigent sick is under a private county agency and actually the physician is not very busy.

Finally, there are several officers who are directly under the supervision of the board of supervisors, officers who are distinctly administrative but who are hardly important enough to be accorded the dignity of being regarded as heads of departments. These include the superintendents of the four hospitals, the three garages, and the fire chief. The latter is the only paid member of the fire department. All of the county executives are chosen by the chairman of the board with confirmation of the supervisors.

The county government of Hawaii, unfortunately, has had an unsavory reputation in the Islands. More than once widespread corruption has been discovered in the ranks of its officers. It has been demonstrated that even hospital nurses have been appointed and removed on political grounds. Many of the constituents, a few years ago, regarded the county system as hopeless. Recently

[2] *Honolulu Star-Bulletin,* July 23, 1926, page 1, column 1.

the tone of its administration has appeared to be picking up, and the county seems to have turned over a new leaf. The island of Hawaii is badly in need of some new county buildings. Most of the departments are housed in what appears to be a reconstructed residence. It is so flimsy that when the building inspector walks across his upstairs office the whole edifice trembles. Across the street, under a beautiful, huge banyan tree is the office of the sheriff and the county jail, neither of imposing construction.

Maui County.—The Maui government is far from perfect, but has been regarded as being much nearer that ideal than the government of Hawaii. It is housed in a splendid new county building, which reflects both beauty and efficiency. Maui has added to the regular frame of government one department headed by the engineer, a county physician, and a large and well-equipped hospital headed by a superintendent. The engineer's first duty is to oversee road work. Actual upkeep of the roads is controlled by the supervisors themselves, each assuming responsibility for a certain area, but they usually follow the advice of the engineer. Construction is under the engineer. The county contracts with a local power company to maintain a lighting system, and this is supervised by the engineer. In addition, that officer is responsible for five waterworks systems, the most important of which is at the county seat at Wailuku. Finally, the engineer cares for county buildings. Considerable time and money are spent in Maui in caring for the indigent. Nearly $40,000 a year is appropriated for the territorial child welfare commission for that county, and about $18,000 a year is distributed through the county clerk's office to the poor. Health work is supervised by the county physician, who has a staff of part-time doctors. The county hospital is highly regarded.

Kauai County.—Kauai boasts of having the most successful local government in the Islands, and the county appears to be able to make good its boast. Kauai also has provided for a county engineer, who is a sort of catch-all for miscellaneous duties. He is not really the head of any department but obeys the orders of the board. Each supervisor is responsible for road maintenance in his own district, and the board collectively supervises most of the contracts for construction, though now and then, when bids are too high, they call upon the engineer's division to do the construction. These county enterprises have proved economical and satisfactory. The school janitors of Kauai and the superintendents of the different local waterworks systems are appointed directly by the board.

The government of Kauai illustrates that old couplet of Pope's which, though misleading, does contain a germ of truth:

> The forms of governments let fools contest,
> Whate'er is best administered is best.

The Kauai government has succeeded, not because of the excellence of its organization, but because of the excellence of its officers. That island has possessed quite the best board of supervisors in the Islands, and they have infected the rest of the administration with their efficiency. Kauai has an adequate county building, not so new as that of Maui, but large and well cared for.

Results.—The annual budgets for the three counties run about $1,500,000 for Hawaii, $1,300,000 for Maui, and $600,000 for Kauai. The reason why the yearly expenses of Maui almost equal those of Hawaii, when there is such a discrepancy in their populations, is that Maui spends so much more for charities and hospitals. All three

spend about one-third of their income for roads. The per capita cost of government is highest in Maui ($25.73); then comes Hawaii ($18.52); while Kauai is the lowest ($16.50).[3] Each county procures about seventy per cent of its income from the general property tax, the highest rate usually being in Hawaii and the lowest in Kauai; rates average about thirty-five dollars per thousand dollars valuation. The whole fiscal system of the counties is being overhauled by the territorial commission on public accountancy. New accounting methods have been installed and reports made comparable one county with another and with the statistics of the United States Census Bureau.

Looking back over the whole system of local government in Hawaii, including all the islands, we are inevitably forced to the conclusion that the territory has not been so fortunate in its county and city government as in its central government. Honolulu and Hawaii have been very violently criticized within and without the Islands. In the field of local administration it is generally admitted that there is more graft, that politics is more prevalent, and that the governments are not so efficient. Why?

The chief point of difference between the territorial and the local governments is that in the former the entire administration is headed by a governor appointed by the President and only indirectly responsible to the people, while in the counties the supervisors are chosen by the people and five of the administrative officers in each area are popularly elected. County government is very close to the rank and file of the population; territorial government is not. Probably this is the explanation. Democracy is

[3] This is on the basis of statistics in the *Annual Report of the Governor,* 1928; for population statistics see p. 52; for financial statistics see p. 23.

notoriously inefficient. We have seen that in the Hawaiian Islands there is a peculiar relationship between the Hawaiians, the Portuguese, and others who compose the majority of the electorate, on the one hand, and the big sugar interests which pay the majority of taxes, on the other. The voters feel that the government, even if excessively extravagant, is only wasting the money of the big sugar firms. When a county officer runs for re-election after it has been proved that money disappeared from his office, as has frequently been the case, the argument is made thus: "If he can steal any of the sugar money, good. We wish we could, too." And so he is sent back to office.

Recent tendencies, however, point to a re-awakening of the political conscience of the voters. After a disastrous year in Honolulu, when the entire government was tied up through the shortsighted selfishness of conflicting elements of the administration, in the 1926 election the electorate rose up *en masse* and drove all of the money-changers out of the temple. The same thing, on a smaller scale, occurred in Hawaii the year before. During the troubles of Honolulu in 1925 there was frequent suggestion that all county government should be abolished and the territory should go back to the centralized administration of the days prior to 1905. This is seriously talked of from time to time, but probably it will never be done. The voters have lots of fun running the county governments, and that activity is a healthy exercise. Efficient or not, county and city government is there to stay.

BIBLIOGRAPHY

The only available references on this chapter are legal ones. The law governing the counties is to be found in Revised Laws of Hawaii, 1925, §§ 1575–1716.

CHAPTER XVIII

FEDERAL GOVERNMENT IN HAWAII

National defense.—We might almost dispose of the activities of the federal government in the Islands with this one sentence: They are the same as they are on the mainland. But this assertion would not be altogether true nor quite complete. It would be accurate to make the statement concerning the post office, the customs inspection, and the coast and geodetic survey. The other branches differ just enough to make their examination interesting and, perhaps, instructive.

The most conspicuous activity of the federal government in the Territory of Hawaii is that of national defense. Admiral Mahan has remarked that the most strategic points in the world are Gibraltar and Honolulu. This latter is the only important harbor in the North Pacific, and naval experts are agreed that, without controlling it, no fleet could operate from the Orient against the Occident or from the Occident against the Orient. Hawaii was made a separate army department in the Western Division in 1911.[1] At the present time a regular fighting force of eight hundred officers and fourteen thousand enlisted men is maintained in the Islands. Twenty-three thousand acres have been set aside for military reservations, fourteen thousand of which are used for quartering, drilling, and maneuvering at Schofield Barracks which are located on the western end of the island of Oahu about twenty miles from Honolulu proper. The first attempt to protect the harbor was the construction of Fort Shafter (completed

[1] *United States War Department Annual Report,* 1912 (United States Government Printing Office, Washington, D.C.), III, 83.

in 1907) at the extreme west end of the city district of Honolulu, and this fort is now the headquarters of the Hawaiian Division. The second link in the defense was completed with the establishment of Fort Armstrong near the entrance to the harbor, now used as headquarters for the Quartermaster's Corps. Farther east is Fort DeRussey along the shore of Waikiki. Still farther east is Fort Ruger, occupying Diamond Head, a high promontory visible for miles out at sea. To the west of Honolulu, at the entrance of Pearl Harbor, lies Fort Kamehameha. Most of the troops are stationed at Schofield Barracks. First constructed in 1909, it is now one of the largest military posts in the United States.

That the army plays an important rôle in the life of the territory and of Honolulu may be seen from the fact that the army population exceeds the rest of the white population of the city-and-county by about a thousand. Nearly a million dollars a month is spent on Oahu for military supplies. The city is regularly policed by a staff of military police, who work in conjunction with the civil authorities.

The Reserve Officers' Training Corps constitutes an important branch in the territorial educational system. More than a thousand students are enrolled in the courses in the secondary schools and in the University. Educational authorities have laid decidedly greater stress on military training in the Islands than is customary on the mainland, and the policy of compulsory drill in the University has caused a great many people to think that the military branch is enjoying an emphasis out of all proportion to its importance. The Hawaiian militia is organized on the same basis as that of the states, and in March 1926 it had an enrolment of 1,430.

The work of the navy centers around Pearl Harbor, which lies about ten miles west of Honolulu proper and contains from ten to twelve square miles of deep water. The harbor is calm in any weather. Two things were necessary to its successful use as a naval base. The coral bar across the entrance had to be cut down, and a large dry dock had to be constructed. The dredging was begun in 1898 and completed in 1911 at a cost of three million dollars. On August 21, 1919, Secretary of the Navy Daniels officially opened the new concrete dry dock, which is 1,001 feet long, 123 feet wide, and 35 feet deep. In the war maneuvers of 1925, however, it was shown that the American battleships of the larger type were unable to enter Pearl Harbor because there was not yet sufficient depth of water in the channel.[2]

Parks and agriculture.—In 1926 there was created the Hawaiian National Park including 187 square miles of land. The park is organized on the same basis as Yellowstone and the other national parks. It is separated into three divisions, all of which are open the year around. One division on Maui includes the extinct crater of Haleakala, and the two other divisions are on Hawaii and include the two active craters of Kilauea and Mauna Loa. The territory has done much to promote tourist visits by co-operating with the federal government in road construction.

Of much importance to the planters of Hawaii is the agricultural experiment station established under the Department of Agriculture in 1901. It has done special work in studying the local produce such as the banana, the papaia, and the alligator pear. Hawaii offers particu-

[2] *New International Yearbook,* 1925, p. 306.

larly interesting fields of research, being too warm for most temperate zone plants and too cool for tropical growth.

Closely associated with this institution is the Bureau of Entomology of the Department of Agriculture, which has been making studies of the Mediterranean fly and the melon fly, both found in Hawaii. Inspectors of this bureau approve all fruits and vegetables before shipment to the mainland. Either at the port of entry in the States, or at the time of departure from Honolulu, the baggage of all passengers must be inspected and sealed. Entomologists do this work in Honolulu.

Public health.—The public health service is on the alert to inspect all the passengers on incoming vessels. It is a fact that Honolulu harbor has more people going in and out than any other port except New York.[3]

Prohibition enforcement.—Several attempts at prohibition were made by the Hawaiian monarchy prior to 1840, but history records no great success in these efforts. The present endeavor, though by a more forceful government, bids fair to show similar results. The Islands compose federal district number twenty-three for prohibition enforcement. Problems facing the administrator in Hawaii are very different from those to be met by similar officers in the states. There is practically no smuggling into the Islands because the sources of illicit supply are too far removed. The corporations handling distilled liquor have had the confidence of the local officers, and little trouble has resulted from that source. But there is a great deal of local manufacture of strong drink, especially among the foreign elements. *Okolehau,* or "oke" as it is

[3] *Annual Report of the Governor,* 1925, p. 102.

commonly called, is a notorious Hawaiian drink, and it is manufactured in considerable quantities in the Japanese settlements. Then, too, federal officials frequently complain of lack of co-operation from local officials. Hawaiian policemen seem to feel that an arid region could hardly claim to be a tourists' paradise. Any prohibition administrator going to Hawaii is destined to endure severe trials.

Other federal services.—In the immigration service the chief difference from mainland activities concerns the pre-investigation of the status of Orientals who are about to go abroad with the intention of returning, and the issuance of certificates of citizenship to American citizens of Oriental ancestry who are about to leave for the mainland or go abroad. Honolulu is the first American port of call for passenger vessels out of the Orient and from the Antipodes en route to mainland United States, and the last port of call outbound for those vessels. No trans-Pacific steamers have their terminals in Honolulu and hence none remain there for more than a few hours. Usually, when vessels are in port, their officers, upon their own responsibility, permit alien passengers to go ashore without inspection by the immigration officials, the vessel being subject to penalty in case the alien passengers do not depart with the ship.

When the federal government first proposed to establish a weather bureau on the Islands, many people thought it was unnecessary because the climate was so perfect. More intelligent counsel prevailed, and now there are two hundred observation stations in the territory. The bureau publishes a weekly weather report and crop bulletin, a local annual report, and a monthly and an annual climatological report. A daily statement is issued covering the salient weather conditions over the North Pacific, com-

piled from reports of fifty mainland stations, ten Asiatic stations, and the various ships in the district, usually averaging about fifteen.

Honolulu is headquarters for the nineteenth lighthouse district, which includes all of Hawaii, Midway, Guam, and the American Samoa. For economy of operation, the usual relief of buoys and supply stations by lighthouse tender is confined to the Hawaiian group. This work for Midway Island is contracted for by the Commercial Pacific Cable Company. Through arrangements with the naval commandants at Guam and at Samoa, similar service is carried on by the naval vessels at those places.

There are three branches of the United States Geological Survey represented in the Islands. There is a section of volcanology to study the disturbances on the island of Hawaii; there is the topographic branch, which cooperates with the work of the territorial government under the public lands office; and there is the water resources branch, which is also connected with the territory.

The foregoing gives us a picture of the problems of the federal departments as they operate in Hawaii. One more difference we must note. Whereas national officials perform only the usual tasks in the Islands, these tasks seem more important than on the mainland because they are more concentrated. Some places in mainland states are ports, others are lighthouse headquarters, and still others are the centers of prohibition enforcement. Honolulu has all of these activities brought together in one city. A sort of *esprit de corps* exists among the federal administrators, and they have grouped themselves together in an informal organization which meets from time to time to discuss mutual problems.

BIBLIOGRAPHY

For a description of the defense activities of the national government see *The New Larned History* (Nichols Publishing Company, Springfield, Mass., 1924), V, 4035; Will Sabin, *Hawaii* (Paradise of the Pacific Publishing Company, Honolulu, 1921); and W. R. Castle, Jr., *Hawaii, Past and Present* (Dodd Mead & Company, New York, 1926), chapter vi. A good account of the activities of all the various branches will be found in *Annual Reports of the Governor of Hawaii* (to the Secretary of the Interior).

CHAPTER XIX

AN APPRAISAL

Possibility of statehood.—Will Hawaii ever become a state? This is the one question concerning the political future of the Islands which is most frequently asked. Within and without the territory public men seem to be agreed that for Hawaii statehood is very far distant. Two reasons are advanced. There is fear of Oriental domination if the territory were to have complete state autonomy, and there is general satisfaction with the present arrangement.

Once an inquiry as to the possibility of statehood was addressed to the late Sanford B. Dole, who was one of the leaders of the revolution against the Queen, the only President of the Republic of Hawaii, and the first governor of the territory. His reply was: "Hawaii will not be a state because some day we might have a Japanese governor." The situation could not be put better. Men fear that if Hawaii should become independent of the restraint of federal domination the time would come when citizens of Oriental ancestry, and particularly citizens of Japanese ancestry, would gain numerical supremacy and would push into the background the haoles and the Hawaiians. While Hawaii remains a territory, the federal government can always step in to veto acts of a supposedly hostile electorate. Whether such fears are well grounded calls for consideration of the whole question of race relations in the Islands.

Upon this issue there are two distinct views. The first proceeds from the optimists. To their manner of thought there is no such thing as racial distinctions within Hawaii.

These people believe that the tropical sunlight of the Islands estops the eye from noting the subtle distinctions of color between yellow and brown and white. The other view proceeds from the pessimists. They fear for the very existence of the territory. They view with alarm the fact that eighty per cent of the population is of other than American stock, that two-thirds of the population are of Oriental ancestry, that one-third of the population is of the Japanese race and that this portion of the population is increasing more rapidly than any other. The Japanese, we are told, are merely biding their time, and are preparing to oust the whites and seize Hawaii for the Mikado. Like the date for the end of the world, the definite time for this catastrophe seems to be in some doubt, but a few have ventured to suggest 1945 or thereabouts.

There are two separate and distinct problems involved in this racial question: (1) Will the people of Japanese ancestry ever constitute a majority in the Islands? To this the pessimists answer "Yes" and the optimists answer "No." (2) Regardless of their numbers, can these Japanese (and also the other Orientals) ever be assimilated into the population? To this the pessimists answer "No" and the optimists answer "Yes." And so the issues are joined.

It is to be noted that the fundamentals of these questions lead us into fields other than political. In the last analysis they are for the sociologist and the economist to decide. But so closely are they bound up with the politics of Hawaii that it may be worth while for us to discuss them. Dr. Romanzo Adams, professor of sociology in the University of Hawaii, has studied racial statistics in the territory for a number of years. His conclusions are probably the most accurate and the most likely to be cor-

rect of any that we can obtain. He cannot be classified as either an optimist or an alarmist. Dr. Adams' opinion is that by 1940 the Japanese vote will be not over thirty-seven per cent of the total vote, and will probably be about twenty-two per cent.[1] He bases his conclusion on two tendencies. First, he says that, although it is the common assumption that the Japanese population is increasing more rapidly than that of the other races, the fact is that the Japanese birth-rate per one thousand married women under forty-five is less than that of any race except the haoles, and the total birth-rate of the Japanese is less than that of the Hawaiians, the Portuguese, the Porto Ricans, and the Spanish. Considering nothing but birth- and death-rates, Dr. Adams says that only thirty-seven per cent of the electorate will be Japanese in 1940.

The second factor on which Dr. Adams bases his estimate is that of immigration and emigration. This element is more a matter of conjecture than is the birth-rate, but it is definitely known that Japanese emigration exceeds Japanese immigration by almost two thousand a year. It is further to be expected that many Japanese young men will continue to go to Japan or to mainland United States because there are so few opportunities open to them in the Islands. Taking probable movements of population into account, Dr. Adams says the total percentage of voters in 1940 is more likely to be about twenty-two per cent. This tends to show that the fears of the pessimists in foreseeing the Japanese completely overrun the Islands are quite without foundation.

There are many people in Hawaii who think that soon the "Japanese problem" is going to be lost in the anxiety

[1] Romanzo Adams, "Some Racial Statistics on Hawaii," in *Foreign Affairs*, II (December 15, 1923), 316.

which will arise over the "Filipino situation." In recent years population estimates show a startling increase in the number of Filipinos in Hawaii, and there is no legislative bar to their further immigration to Hawaii. Filipinos have recently caused trouble by their tendency to violate some of the legislative codes of public morals. Most recent of arrivals, least assimilated—is it not to be expected? Give the Filipinos twenty years more, and we shall have forgotten them, too, in worry about some other bogey. Whether complete assimilation can ever take place is a sociological question and one about which anyone may have an opinion. Certain it is that, with the possible exception of the French in their relation to the negroes, the people of Hawaii have gone farther toward breaking down race barriers than any other civilized people in the world have done. In the Islands no race is regarded as grossly inferior, as are the negroes in the Southern states, and there is no racial animosity such as pervades certain districts in California against the Japanese. Those who speak with unrestrained antagonism toward the Japanese and the Filipinos do so in the manner of politicians attacking opponents of whom they have only read. To walk down the streets of the Oriental districts and to behold fathers who have donned clean kimonos to take well-behaved children out for a walk before the evening meal quiets considerably the agitated feeling of Oriental hatred.

An immediate question in political assimilation is, Will the Chinese vote as a unit? So far they have not done so. The Chinese are far from violent in their racial consciousness. Portuguese are more and more intermarrying with the haoles, and their interests are increasingly similar. Hawaiians have never shown more than passing opposition to haoles, and in any racial conflict at the polls

they would line up with the haoles as against any imagined Oriental threat. Try as we can, it seems impossible to find any reasonable basis for fear that American supremacy can be undermined, granting that anyone wanted to do it.

The truth is that in Hawaii there is racial consciousness but not racial antagonism. The intermixture of nationalities is a problem but not a danger. Indications are that the problem is being met. While calm logic would dictate that there is little probability of Oriental domination, still there is some possibility of it. Founded or unfounded, anxiety lest this come about is so widespread that Hawaii will not furnish the forty-ninth star in the American flag, for at least some time to come.

But statehood is of little moment. The present territorial form of government is well liked. A careful examination of the opinions of the Hawaiians would show little desire for independence. Under the present scheme the Hawaiians can largely control local government in the territory and can have an important part in territorial administration. The haoles like the territorial form. When they want some local reform, if they want it with enough enthusiasm, they can always get it adopted. They also feel more secure knowing that the federal government can step in if the situation ever gets beyond their control. So why change?

It is worthy of note that, whereas Hawaii, Porto Rico, and the Philippines came under American sovereignty at the same time, the government of Hawaii has steadily given general satisfaction, while neither the government of Porto Rico nor that of the Philippines justifies a similar claim. All three regions contained peoples of other than the old American stock. Porto Rico and the Philippines had been under Spanish domination, but

Hawaii had been free and independent. Porto Rico and the Philippines left their old allegiance with a feeling of relief, while Hawaii's revolt had fomented strife and bitterness not quelled for a long time; yet, after a quarter-century of Americanism, Hawaii is complacently satisfied, and the Philippines and Porto Rico are not.

There is not enough difference in the governments of the three areas to account for the difference in result. Each has a governor appointed by the President. Each has a popularly elected legislature of two houses, exercising similar powers. Each has somewhat the same electoral qualifications for voters. The several court systems are not substantially different. Hawaii is represented in Congress by one "delegate," Porto Rico by one "resident commissioner," and the Philippines by two "resident commissioners"; all the representatives have the power to speak but not to vote in the lower house of Congress. It is true that Hawaii is an incorporated territory and that her citizens have all the rights of American citizens under the Constitution, but by Congressional act practically the same rights have been extended to Porto Rico and to a less extent to the Philippines. The explanation of this phenomenon must lie outside the field of political behavior.

The fact that there are a great number of races in Hawaii makes the system acceptable to all to have one common meeting-ground under American sovereignty. All agree that their rights will be more properly adjudicated by the United States than by any other individual nationality. The great racial diversity has prevented any one group from urging a movement toward independence.

More important than this, under American control Hawaii has been economically prosperous. People in the

Islands realize that their financial well-being is inevitably tied up with the United States. Sugar and pineapples are Hawaii's staples, and without the American market all is lost. Economists tell us that it is not true that trade follows the flag, but it is certainly true that the flag follows trade. Colonel Carmi A. Thompson, who made a special investigation of conditions in the Philippines for President Coolidge in 1926, displayed the same view when he recommended that the government find ways to attract American capital to the Philippines. Thompson's idea was to bind the Philippines more closely to the United States. He knew that if the financial interests of the Islands lay in the direction of the United States, there would the affections lie also. Such has been the case with Hawaii.

Thus it is due in large measure to the great number of races and to the economic situation of the Islands that the territorial government has been so successful.

Probable continuation of territorial status.—As we see the situation now, the government of Hawaii is most likely to develop along lines already laid down. Under fear of the so-called "Japanese menace" and partly to insure the protection of the Islands, suggestions have been made that a commission form of government should be provided for Hawaii. No definite plan has yet been devised, but the understanding is that such a commission would have representatives from the army, the navy, the national administration, and the Islands themselves. Such an innovation would be very unpopular in Hawaii, and there appears to be no need for it. The "Japanese menace" cannot be said to exist, and the local administration has usually been ready to outdo both the army and navy in preparation for defense.

Looking at the whole Hawaiian scheme, it seems that, although some changes might be made for the better, yet they are of less than major importance. The Honolulu government needs revision. It has been suggested that Honolulu should have a city manager. Such a plan would not be successful, because a city manager, in order to accomplish anything, would have to be chosen from without the territory. Otherwise his office would be only a political superplum. But the people of Hawaii have always had an aversion to having a *malahini* (newcomer) try to come in and tell them how to run their affairs. The city manager plan would never be adopted. The best policy would be to break up the deadlock between the mayor and board of supervisors by making the mayor responsible for appointments without confirmation of the board, and by making the offices of clerk, treasurer, and sheriff appointive by the mayor and not elective by the people. Such steps would encourage efficiency in administration by fixing responsibility.

County governments would be better off if they had fewer elective offices, but in the main all the members of the local administration are so well known by the people that they can be closely watched.

In its broad plan the territorial system could hardly be changed to advantage. The policy of senatorial confirmation of appointments is good in view of the fact that the governor is chosen by the President. On the other hand, the administrative system is like Topsy; it "just growed," without rhyme or much reason. It is overorganized. Eighty-five departments are too many, both for the governor to watch and for the people to understand. There are a number of agencies—such as the sugar expert and the fence commissioners—which could be quite

done away with and their functions more logically assigned to other departments. We find, also, much division of responsibility in the territorial government. The board of health and the president of the board of health are both separately responsible to the governor; the board of public instruction and the superintendent are both separately appointed; the land board and the land commissioner are in the same situation; and there are many agencies controlling the hospital for the insane. All these factors tend to prevent administrative efficiency. Frequently the legislature has heaped upon one officer a multitude of duties which do not directly concern him. This is true of the superintendent of public works and of the treasurer. There is confusion as to whether such agencies as the board of child welfare and the industrial accident boards are territorial or county agencies. Such difficulties could easily be eliminated to the greater efficiency of the government and to the clearer understanding of administration by the people. One agency which might well be added is a legislative reference bureau, such as has been so successful in Wisconsin. This would tend to eliminate errors in statutory construction.

Just recently, people in the Islands and outside are beginning to realize what excellent opportunities there are to make Hawaii a model of governmental efficiency. The recent work of the commission on public accountancy shows that much can be done. There are many innovations suggested as significant for American public life, such as the unicameral legislature, which could be tested out on a small scale in Hawaii. Whether the unselfishness of the scientific spirit can be expected to increase in Hawaii, or in the national government, is a matter for conjecture.

Certainly if the people of Hawaii follow the path which they have marked out for themselves, they will go far toward good government. The motto of the territory remains the same as was that of the Hawaiian Kingdom: *"Ua mau ke ea o ka aina i ka pono,"* which means, "The life of the land is preserved by righteousness."

BIBLIOGRAPHY

In connection with the racial question, for the best statement of the case for the optimists see Riley H. Allen, "Americans All in Hawaii," in *Sunset,* LVI (January 1926), 24–25; for a good summary of the case for the pessimists see *Literary Digest,* LXXXV (June 6, 1925), 13.

APPENDIX A

HAWAIIAN PRONUNCIATION

The Hawaiian language is very soft when uttered because of the great number of vowels. Two consonants are never found together. If so, the word is not Hawaiian. Two or more vowels are frequently found adjacent, as in *aa* meaning lava, *ae* meaning yes, or *aole* meaning no.

The alphabet in Hawaiian contains only twelve letters. They are the vowels *a, e, i, o,* and *u,* and the consonants *h, k, l, m, n, p,* and *w.* On some islands, particularly Kauai and Niihau, the letter *t* is substituted for the consonant *k.*

Consonants are pronounced as in English. As to the vowels, pronounce the *a* as in "calm," the *e* as the *a* in "fate," the *i* as in "gasoline," the *o* as in "pole," and the *u* as the *oo* in "moon." In short, the vowels follow Latin rules of pronunciation. There are two familiar diphthongs, *ai* pronounced like the long *i* (eye) in English and *ao* which resembles the English diphthong *ow* (cow).

The following are some of the Hawaiian words used in this book, marked in accordance with the diacritical markings used in Webster's *International Dictionary*:

Haleakala, Hä-lā-ä-kä-lä. A mountain on the island of Maui.

Haole, How-lā. Used herein to denote members of the North-European races.

Hawaii, Hä-wī-ē. Name of the largest island in the group, and of the archipelago as well.

Hilo, Hē-lō. Seat of Hawaii County, second largest city in the territory.

Honolulu, Hō-nō-lo͞o-lo͞o. Capital and largest city of the territory.

Kaahumanu, Kä-ä-ho͞o-mä-no͞o. Favorite queen of Kamehameha, first *kuhina nui* (regent).

Kahoolawe, Kä-ho͞o-lä-wā. One of the smaller islands.

Kalakaua, Kä-lä-kow-ä. Last king of the Islands, followed by Queen Liliuokalani.

Kamehameha, Kä-mā-hä-mā-hä. Name of first and several subsequent kings.

Kanalua, Kä-nä-lo͞o-ä. Undecided; is shouted when a legislator wishes to postpone his vote until the end of a roll call.
Kauai, Kow-eye. Name of one of the important islands.
Kiluea, Kē-lo͞o-ā-ä. A volcano on Hawaii.
Kohala, Kō-hä-lä. A district on the island of Hawaii.
Kuhina nui, Ko͞o-hē-nä no͞o-ē. Regent of the kingdom.
Lanai, Lä-nī. One of the smaller islands.
Liholiho, Lē-hō-lē-hō. A king of the Islands, who adopted the name of Kamehameha II.
Liliuokalani, Lē-lē-o͞o-ō-kä-lä-nē. Queen of Hawaii, last reigning ruler.
Lunalilo, Lo͞o-nä-lē-lō. A king of Hawaii.
Mahele, Mä-hā-lā. Division, here referring to the partition of lands among the people, nobles, and king.
Malahini, Mä-lä-hē-nē. Newcomer.
Manoa, Mä-nō-ä. A valley, one of the residential sections of Honolulu.
Maui, Mä-wē. One of the larger islands.
Niihow, Nē-how. One of the smaller islands.
Oahu, O-ä-ho͞o. The island on which Honolulu is located.
Paao, Pä-ä-ō. Legendary chief of ancient Hawaii.
Palapala, Pä-lä-pä-lä. Alphabet.
Poi, Poy. National Hawaiian dish, a sort of mush.
Waikiki, Wī-kē-kē. The beach.

APPENDIX B

KINGS AND GOVERNORS OF HAWAII

KINGDOM OF HAWAII

King	Reigned
Kamehameha I	1795–1819
Kamehameha II	1819–1824
Kamehameha III	1824–1854
Kamehameha IV	1854–1863
Kamehameha V	1863–1872
Lunalilo	1873–1874
Kalakaua	1874–1891
Liliuokalani (Queen)	1891–1893

REPUBLIC OF HAWAII

President	In Office
Sanford B. Dole (Provisional President)	1893–1894
Sanford B. Dole (Permanent President)	1894–1898

TERRITORY OF HAWAII

Governor	In Office
Sanford B. Dole (Temporary)	1898–1900
Sanford B. Dole (under Organic Act)	1900–1903
George R. Carter	1903–1907
Walter F. Frear	1907–1913
Lucius E. Pinkham	1913–1918
Charles J. McCarthy	1918–1921
Wallace R. Farrington	1921–1929
Lawrence M. Judd	1929–

APPENDIX C

JOINT [NEWLANDS] RESOLUTION

TO PROVIDE FOR ANNEXING THE HAWAIIAN ISLANDS TO THE UNITED STATES[1]

WHEREAS, the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining; Therefore

Resolved, by the Senate and House of Representatives of the United States of America in Congress Assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided,* That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the

[1] This is resolution No. 55, known as the "Newlands Resolution," of July 7, 1898; 30 Statutes at Large 750; 2 Supplement, Revised Statutes 895; also to be found in Revised Laws of Hawaii, 1925, pp. 58–60.

inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have the power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall,

as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

Approved July 7th, 1898

APPENDIX D

AN ACT TO PROVIDE A GOVERNMENT FOR THE TERRITORY OF HAWAII[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled.

CHAPTER I. GENERAL PROVISIONS

Definitions

SEC. 1. That the phrase "the laws of Hawaii," as used in this Act without qualifying words, shall mean the constitution and laws of the Republic of Hawaii, in force on the twelfth day of August, eighteen hundred and ninety-eight, at the time of the transfer of the sovereignty of the Hawaiian Islands to the United States of America.

The constitution and statute laws of the Republic of Hawaii then in force, set forth in a compilation made by Sidney M. Ballou under the authority of the legislature, and published in two volumes entitled "Civil Laws" and "Penal Laws," respectively, and in the Session Laws of the Legislature for the session of eighteen hundred and ninety-eight, are referred to in this Act as "Civil Laws," "Penal Laws," and "Session Laws."

Territory of Hawaii

SEC. 2. That the islands acquired by the United States of America under an Act of Congress entitled "Joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall be known as the Territory of Hawaii.

[1] This is the Act, as amended to 1925, of April 30, 1900, 31 Statutes at Large 141, chap. 339 (2 Supplement, Revised Statutes 1141), prepared and recommended by a commission appointed by the President under the Joint Resolution of Annexation of July 7, 1898, 30 Statutes at Large 750 (2 Supplement, Revised Statutes 895). It will be found also in complete form, with annotations, in Revised Laws of Hawaii, 1925, pp. 61–111.

Government of the Territory of Hawaii

SEC. 3. That a Territorial government is hereby established over the said Territory, with its capital at Honolulu, on the island of Oahu.

Citizenship

SEC. 4. That all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.

And all citizens of the United States resident in the Hawaiian Islands who were resident there on or since August twelfth, eighteen hundred and ninety-eight and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii.

SEC. 5. That the Constitution, and, except as otherwise provided, all the laws of the United States, including laws carrying general appropriations, which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States: *Provided,* That sections eighteen hundred and forty-one to eighteen hundred and ninety-one, inclusive, nineteen hundred and ten and nineteen hundred and twelve, of the Revised Statutes, and the amendments thereto, and an Act entitled "An Act to prohibit the passage of local or special laws in the Territories of the United States, to limit territorial indebtedness, and for other purposes," approved July thirtieth, eighteen hundred and eighty-six, and the amendments thereto, shall not apply to Hawaii.

Laws of Hawaii

SEC. 6. That the laws of Hawaii not inconsistent with the Constitution or laws of the United States or the provisions of this Act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States.

SEC. 7. That the constitution of the Republic of Hawaii and the laws of Hawaii, as set forth in the following acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the following subjects, are hereby repealed: . . . . [Here follows a detailed enumeration of sections.]

Certain Offices Abolished

SEC. 8. That the offices of President, minister of foreign affairs, minister of the interior, minister of finance, minister of public instruction, auditor-general, deputy auditor-general, surveyor-general, marshal, and deputy marshal of the Republic of Hawaii are hereby abolished.

Amendment of Official Titles

SEC. 9. That wherever the words "President of the Republic of Hawaii," or "Republic of Hawaii," or "Government of the Republic of Hawaii," or their equivalents, occur in the laws of Hawaii not repealed by this Act, they are hereby amended to read "Governor of the Territory of Hawaii," or "Territory of Hawaii," or "Government of the Territory of Hawaii," or their equivalents, as the context requires.

Construction of Existing Statutes

SEC. 10. That all rights of action, suits at law and in equity, prosecutions, and judgments existing prior to the taking effect of this Act shall continue to be as effectual as if this Act had not been passed; and those in favor of or against the Republic of Hawaii, and not assumed by or transferred to the United States, shall be equally valid in favor of or against the government of the Territory of Hawaii. All offenses which by statute then in force were punishable as offenses against the Republic of Hawaii shall be punishable as offenses against the government of the Territory of Hawaii, unless such statute is inconsistent with this Act, or shall be repealed or changed by law. No person shall be subject to imprisonment for nonpayment of taxes nor for debt. All criminal and penal proceedings then pending in the courts of the Republic of Hawaii shall be prosecuted to final judgment and execution in the name of the Territory of Hawaii; all such proceedings, all actions at law, suits in equity, and other proceedings then pending in the courts of the Republic of Hawaii shall be carried on to final judgment and execution in the corresponding courts of the Territory of Hawaii; and all process issued and sentences imposed before this Act takes effect shall be as valid as if issued or imposed in the name of the Territory of Hawaii: *Provided,* That no suit or proceedings shall be maintained for the specific performance of any contract heretofore or

hereafter entered into for personal labor or service, nor shall any remedy exist or be enforced for breach of any such contract, except in a civil suit or proceeding instituted solely to recover damages for such breach: *Provided further,* That the provisions of this section shall not modify or change the laws of the United States applicable to merchant seamen.

That all contracts made since August twelfth, eighteen hundred and ninety-eight, by which persons are held for service for a definite term, are hereby declared null and void and terminated, and no law shall be passed to enforce said contracts in any way; and it shall be the duty of the United States marshal to at once notify such persons so held of the termination of their contracts.

That the Act approved February twenty-sixth, eighteen hundred and eighty-five, "To prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," and the Acts amendatory thereof and supplemental thereto, be, and the same are hereby, extended to and made applicable to the Territory of Hawaii.

Style of Process

SEC. 11. That the style of all process in the Territorial courts shall hereafter run in the name of "The Territory of Hawaii," and all prosecutions shall be carried on in the name and by the authority of the Territory of Hawaii.

CHAPTER II. THE LEGISLATURE

The Legislative Power

SEC. 12. That the legislature of the Territory of Hawaii shall consist of two houses, styled, respectively, the senate and house of representatives, which shall organize and sit separately, except as otherwise herein provided.

The two houses shall be styled "The legislature of the Territory of Hawaii."

SEC. 13. That no person shall sit as a senator or representative in the legislature unless elected under and in conformity with this Act.

General Elections

SEC. 14. That a general election shall be held on the Tuesday next after the first Monday in November, nineteen hundred, and every second year thereafter: *Provided, however,* That the governor may, in his discretion, on thirty days' notice, order a special election before the first general election, if, in his opinion, the public interests shall require a special session of the legislature.

Each House Judge of Qualifications of Members

SEC. 15. That each house shall be the judge of the elections, returns, and qualifications of its own members.

Disqualifications of Legislators

SEC. 16. That no member of the legislature shall, during the term for which he is elected, be appointed or elected to any office of the Territory of Hawaii.

Disqualifications of Government Officers and Employees

SEC. 17. That no person holding office in or under or by authority of the Government of the United States or of the Territory of Hawaii shall be eligible to election to the legislature, or to hold the position of a member of the same while holding said office.

SEC. 18. No idiot or insane person, and no person who shall be expelled from the legislature for giving or receiving bribes or being accessory thereto, and no person who, in due course of law, shall have been convicted of any criminal offense punishable by imprisonment, whether with or without hard labor, for a term exceeding one year, whether with or without fine, shall register to vote or shall vote or hold any office in, or under, or by authority of, the government, unless the person so convicted shall have been pardoned and restored to his civil rights.

Oath of Office

SEC. 19. That every member of the legislature, and all officers of the government of the Territory of Hawaii, shall take the following oath or affirmation:

I solemnly swear (or affirm), in the presence of Almighty God, that I will faithfully support the Constitution and laws of

the United States, and conscientiously and impartially discharge my duties as a member of the legislature, or as an officer of the government of the Territory of Hawaii (as the case may be).

Officers and Rules

SEC. 20. That the senate and house of representatives shall each choose its own officers, determine the rules of its own proceedings, not inconsistent with this Act, and keep a journal.

Ayes and Noes

SEC. 21. That the ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal.

Quorum

SEC. 22. That a majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a law in each house shall require the vote of a majority of all the members to which such house is entitled.

SEC. 23. That a smaller number than a quorum may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 24. That, for the purpose of ascertaining whether there is a quorum present, the chairman shall count the number of members present.

Punishment of Persons not Members

SEC. 25. That each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest, or detain any witness or other person ordered to attend such house, on his way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

But the person charged with the offense shall be informed,

in writing, of the charge made against him, and have an opportunity to present evidence and be heard in his own defense.

Compensation of Members

SEC. 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of $1,000 for each regular session, payable in three equal installments on and after the first, thirtieth, and fiftieth days of the session, and the sum of $500 for each special session: *Provided,* That they shall receive no compensation for any extra session held under the provisions of section 54 of this Act.

Punishment of Members

SEC. 27. That each house may punish its own members for disorderly behavior or neglect of duty, by censure, or by a two-thirds vote suspend or expel a member.

Exemption from Liability

SEC. 28. That no member of the legislature shall be held to answer before any other tribunal for any words uttered in the exercise of his legislative functions in either house.

Exemption from Arrest

SEC. 29. That the members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the respective houses, and in going to and returning from the same: *Provided,* That such privileges as to going and returning shall not cover a period of over ten days each way.

THE SENATE

Number of Members

SEC. 30. That the senate shall be composed of fifteen members, who shall hold office for four years: *Provided, however,* That of the senators elected at the first general election, two from the first district, one from the second, three from the third, and one from the fourth district shall hold office for two years only, the details of such apportionment to be provided for by the legislature.

Vacancies

SEC. 31. That vacancies caused by death, resignation, or otherwise shall be filled for the unexpired term at general or special elections.

Senatorial Districts

SEC. 32. That for the purpose of representation in the senate, until otherwise provided by law, the Territory is divided into the following senatorial districts, namely:

First district: The island of Hawaii.

Second district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Third district: The island of Oahu.

Fourth district: The islands of Kauai and Niihau.

SEC. 33. That the electors in the said districts shall be entitled to elect senators as follows:

In the first district, four;
In the second district, three;
In the third district, six;
In the fourth district, two.

Qualifications of Senators

SEC. 34. That in order to be eligible to election as a senator a person shall—

Be a citizen of the United States;
Have attained the age of thirty years;
Have resided in the Hawaiian Islands not less than three years and be qualified to vote for senators in the district from which he is elected.

THE HOUSE OF REPRESENTATIVES

Number of Representatives

SEC. 35. That the house of representatives shall be composed of thirty members, elected, except as herein provided, every second year.

Term of Office

SEC. 36. That the term of office of the representatives elected at any general or special election shall be until the next general election held thereafter.

Vacancies

SEC. 37. That vacancies in the office of representative caused by death, resignation, or otherwise shall be filled for the unexpired term at special elections.

Representative Districts

SEC. 38. That for the purpose of representation in the house of representatives, until otherwise provided by law, the Territory is divided into the following representative districts, namely:

First district: That portion of the island of Hawaii known as Puna, Hilo, and Hamakua.

Second district: That portion of the island of Hawaii known as Kau, Kona, and Kohala.

Third district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Fourth district: That portion of the island of Oahu lying east and south of Nuuanu street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point.

Fifth district: That portion of the island of Oahu lying west and north of the fourth district.

Sixth district: The islands of Kauai and Niihau.

Apportionment

SEC. 39. That the electors in the said districts shall be entitled to elect representatives as follows:

In the first district, four;
In the second district, four;
In the third district, six;
In the fourth district, six;
In the fifth district, six;
In the sixth district, four.

Qualifications of Representatives

SEC. 40. That in order to be eligible to be a member of the house of representatives a person shall, at the time of election—

Have attained the age of twenty-five years;

Be a citizen of the United States;

Have resided in the Hawaiian Islands not less than three years and shall be qualified to vote for representatives in the district from which he is elected.

Legislation

Sessions of the Legislature

Sec. 41. That the first regular session of the legislature shall be held on the third Wednesday in February, nineteen hundred and one, and biennially thereafter, in Honolulu.

Sec. 42. That neither house shall adjourn during any session for more than three days, or sine die, without the consent of the other.

Sec. 43. That each session of the legislature shall continue not longer than sixty days, excluding Sundays and holidays: *Provided, however,* That the governor may extend such sessions for not more than thirty days.

The governor may convene the legislature, or the senate alone, in special session, and, in case the seat of government shall be unsafe from an enemy, riot, or insurrection, or any dangerous disease, direct that any regular or special session shall be held at some other than the regular meeting place.

Enacting Clause—English Language

Sec. 44. That the enacting clause of all laws shall be, "Be it enacted by the legislature of the Territory of Hawaii."

All legislative proceedings shall be conducted in the English language.

Title of Laws

Sec. 45. That each law shall embrace but one subject, which shall be expressed in its title.

Reading of Bills

Sec. 46. That a bill in order to become a law shall, except as herein provided, pass three readings in each house, on separate days, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal.

Certification of Bills from One House to the Other

Sec. 47. That every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Signing Bills

SEC. 48. That, except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor.

Veto of Governor

SEC. 49. That every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses, and shall thereupon be presented to the governor. If he approves it, he shall sign it, and it shall become a law. If the governor does not approve such bill, he may return it, with his objections, to the legislature.

He may veto any specific item or items in any bill which appropriates money for specific purposes; but shall veto other bills, if at all, only as a whole.

Procedure upon Receipt of Veto

SEC. 50. That upon the receipt of a veto message from the governor each house of the legislature shall enter the same at large upon its journal and proceed to reconsider such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal.

If after such reconsideration such bill, or part of a bill, shall be approved by a two-thirds vote of all the members to which each house is entitled, it shall thereby become law.

Failure to Sign or Veto

SEC. 51. That if the governor neither signs nor vetoes a bill within ten days after it is delivered to him it shall become a law without his signature, unless the legislature adjourns sine die prior to the expiration of such ten days.

If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature by their adjournment prevents its return, in which case it shall not be a law.

Appropriations

SEC. 52. That appropriations, except as herein otherwise provided, shall be made by the legislature.

SEC. 53. That the governor shall submit to the legislature, at each regular session, estimates for appropriations for the succeeding biennial period.

SEC. 54. That in case of failure of the legislature to pass appropriation bills providing for payments of the necessary current expenses of carrying on the government and meeting its legal obligations as the same are provided for by the then existing laws, the governor shall, upon the adjournment of the legislature, call it in extra session for the consideration of appropriation bills, and until the legislature shall have acted the treasurer may, with the advice of the governor, make such payments, for which purpose the sums appropriated in the last appropriation bills shall be deemed to have been reappropriated. And all legislative and other appropriations made prior to the date when this Act shall take effect shall be available to the government of the Territory of Hawaii.

Legislative Power

SEC. 55. That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable. The legislature, at its first regular session after the census enumeration shall be ascertained, and from time to time thereafter, shall reapportion the membership in the senate and house of representatives among the senatorial and representative districts on the basis of the population in each of said districts who are citizens of the Territory; but the legislature shall not grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the approval of Congress; nor shall it grant private charters, but it may by general act permit persons to associate themselves together as bodies corporate for manufacturing, agricultural, and other industrial pursuits, and for conducting the business of insurance, savings banks, banks of discount and deposit (but not of issue), loan, trust, and guaranty associations, for the establishment and conduct of cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other

benevolent, charitable, or scientific association. No divorce shall be granted by the legislature, nor shall any divorce be granted by the courts of the Territory unless the applicant therefor shall have resided in the Territory for two years next preceding the application, but this provision shall not affect any action pending when this Act takes effect; nor shall any lottery or sale of lottery tickets be allowed; nor shall spirituous or intoxicating liquors be sold except under such regulations and restrictions as the Territorial legislature shall provide; nor shall any public money be appropriated for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the government; nor shall the government of the Territory of Hawaii, or any political or municipal corporation or subdivision of the Territory, make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall any debt be authorized to be contracted by or on behalf of the Territory, or any political or municipal corporation or subdivision thereof, except to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defense, except that in addition to any indebtedness created for such purposes the legislature may authorize loans by the Territory, or any such subdivision thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads, harbor, and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any such subdivision shall not exceed one per centum of the assessed value of the property in the Territory or subdivision, respectively, as shown by the then last assessments for taxation, whether such assessments are made by the Territory or the subdivision or subdivisions, and the total indebtedness of the Territory shall not at any time be extended beyond ten per centum of such assessed value of property in the Territory and the total indebtedness of any such subdivision shall not at any time be extended beyond three per centum of such assessed value of property in the subdivision, but nothing in this Act shall prevent the refunding of any indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or any part thereof; nor shall any bond or other instrument of any such indebtedness be issued unless made payable in not more than thirty years from the

date of the issue thereof; nor shall any such bond or indebtedness be issued or incurred until approved by the President of the United States: *Provided,* That the legislature may by general act provide for the condemnation of property for public uses, including the condemnation of rights of way for the transmission of water for irrigation and other purposes.

Town, City, and County Government

SEC. 56. That the legislature may create counties and town and city municipalities within the Territory of Hawaii and provide for the government thereof, and all officials thereof shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislature of the Territory.

ELECTIONS

Exemption of Electors on Election Day

SEC. 57. That every elector shall be privileged from arrest on election day during his attendance at election and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony.

SEC. 58. That no elector shall be so obliged to perform military duty on the day of election as to prevent his voting, except in time of war or public danger, or in case of absence from his place of residence in actual military service, in which case provision is made by law for taking his vote.

Method of Voting for Representatives

SEC. 59. That each voter for representative may cast a vote for as many representatives as are to be elected from the representative district in which he is entitled to vote.

The required number of candidates receiving the highest number of votes in the respective representative districts shall be the representatives for such districts.

Qualifications of Voters for Representatives

SEC. 60. That in order to be qualified to vote for representatives a person shall—

First. Be a male citizen of the United States.

Second. Have resided in the Territory not less than one year preceding and in the representative district in which he offers to register not less than three months immediately preceding the time at which he offers to register.

Third. Have attained the age of twenty-one years.

Fourth. Prior to each regular election, during the time prescribed by law for registration, have caused his name to be entered on the register of voters for representatives for his district.

Fifth. Be able to speak, read, and write the English or Hawaiian language.

Method of Voting for Senators

SEC. 61. That each voter for senator may cast one vote for each senator to be elected from the senatorial district in which he is entitled to vote.

The required number of candidates receiving the highest number of votes in the respective senatorial districts shall be the senators for such district.

Qualifications of Voters for Senators and in All Other Elections

SEC. 62. That in order to be qualified to vote for senators and for voting in all other elections in the Territory of Hawaii a person must possess all the qualifications and be subject to all the conditions required by this Act of voters for representatives.

SEC. 63. That no person shall be allowed to vote who is in the Territory by reason of being in the Army or Navy or by reason of being attached to troops in the service of the United States.

SEC. 64. That the rules and regulations for administering oaths and holding elections set forth in Ballou's Compilation, Civil Laws, Appendix, and the list of registering districts and precincts appended, are continued in force with the following changes, to wit: . . . . [Here follows a detailed list of the changes.]

SEC. 65. That the legislature of the Territory may from time to time establish and alter the boundaries of election districts and voting precincts and apportion the senators and representatives to be elected from such districts.

CHAPTER III. THE EXECUTIVE

The Executive Power

SEC. 66. That the executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall have resided therein for at least three years next preceding his appointment; shall be commander in chief of the militia thereof; and may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon.

Enforcement of Law

SEC. 67. That the governor shall be responsible for the faithful execution of the laws of the United States and the Territory of Hawaii within the said Territory, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory, and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory, or any part thereof, under martial law until communication can be had with the President and his decision thereon made known.

General Powers of the Governor

SEC. 68. That all the powers and duties which, by the laws of Hawaii, are conferred upon or required of the President or any minister of the Republic of Hawaii (acting alone or in connection with any other officer or person or body) or the cabinet or executive council, and not inconsistent with the Constitution or laws of the United States, are conferred upon and required of the governor of the Territory of Hawaii, unless otherwise provided.

Secretary of the Territory

SEC. 69. That there shall be a secretary of the said Territory, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and who shall be a citizen of the Territory of Hawaii and hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall record and preserve all the laws and proceedings of the legislature and all acts and proceedings of the governor, and promulgate proclamations of the governor. He shall, within thirty days after the end of each session of the legislature, transmit to the President, the President of the Senate, and the Speaker of the House of Representatives of the United States one copy each of the laws and journals of such session. He shall transmit to the President, semi-annually, on the first days of January and July, a copy of the executive proceedings, and shall perform such other duties as are prescribed in this Act or as may be required of him by the legislature of Hawaii.

Acting Governor in Certain Contingencies

SEC. 70. That in case of the death, removal, resignation, or disability of the governor, or his absence from the Territory, the secretary shall exercise all the powers and perform all the duties of governor during such vacancy, disability, or absence, or until another governor is appointed and qualified.

Attorney-General

SEC. 71. That there shall be an attorney-general, who shall have the powers and duties of the attorney-general and those of the powers and duties of the minister of the interior which relate to prisons, prisoners, and prison inspectors, notaries public, and escheat of lands under the laws of Hawaii, except as changed by this Act and subject to modification by the legislature.

Treasurer

SEC. 72. That there shall be a treasurer, who shall have the powers and duties of the minister of finance and those of the powers and duties of the minister of the interior which relate to licenses, corporations, companies, and partnerships, business conducted by married women, newspapers, registry of conveyances,

and registration of prints, labels, and trademarks under the laws of Hawaii, except as changed in this Act and subject to modification by the legislature.

Commissioner of Public Lands

SEC. 73. (*a*) That when used in this section—

(1) The term "commissioner" means the commissioner of public lands of the Territory of Hawaii;

(2) The term "land board" means the board of public lands, as provided in subdivision (*l*) of this section;

(3) The term "public lands" includes all lands in the Territory of Hawaii classed as government or crown lands previous to August 15, 1895, or acquired by the government upon or subsequent to such date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; except (1) lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, (2) lands set apart or reserved by Executive order by the President, (3) lands set aside or withdrawn by the governor under the provisions of subdivision (*q*) of this section, (4) sites of public buildings, lands used for roads, streets, landings, nurseries, parks, tracts reserved for forest growth or conservation of water supply, or other public purposes, and (5) lands to which the United States has relinquished the absolute fee and ownership, unless subsequently placed under the control of the commissioner and given the status of public lands in accordance with the provisions of this Act, the Hawaiian Homes Commission Act, 1920, or the Revised Laws of Hawaii of 1915; and

(4) The term "person" includes individual, partnership, corporation, and association.

b) Any term defined or described in section 347 or 351 of the Revised Laws of Hawaii of 1915, except a term defined in subdivision (*a*) of this section, shall, whenever used in this section, if not inconsistent with the context or any provision of this section, have the same meaning as given it by such definition or description.

c) The laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this Act, shall continue in force until Congress shall otherwise provide. Subject to the

approval of the President, all sales, grants, leases, and other dispositions of the public domain, and agreements concerning the same, and all franchises granted by the Hawaiian government in conformity with the laws of Hawaii, between the 7th day of July, 1898, and the 28th day of September, 1899, are hereby ratified and confirmed. In said laws "land patent" shall be substituted for "royal patent," "commissioner of public lands," for "minister of the interior," "agent of public lands," and "commissioners of public lands," or their equivalents; and the words "that I am a citizen of the United States," or "that I have declared my intention to become a citizen of the United States, as required by law," for the words "that I am a citizen by birth (or naturalization) of the Republic of Hawaii," or "that I have received letters of denization under the Republic of Hawaii," or "that I have received a certificate of special right of citizenship from the Republic of Hawaii."

d) No lease of agricultural lands or of undeveloped arid public land which is capable of being converted into agricultural land by the development, for irrigation purposes, of either the underlying or adjacent waters, or both, shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than fifteen years. Each such lease shall be sold at public auction to the highest bidder after due notice as provided in subdivision (*i*) of this section and the laws of the Territory of Hawaii. Each such notice shall state all the terms and conditions of the sale. The land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect: *Provided,* That the commissioner may, with the approval of the governor and at least two-thirds of the members of the land board, omit such withdrawal provision from the lease of any lands suitable for the cultivation of sugar cane whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal.

e) All funds arising from the sale or lease or other disposal of public land shall be appropriated by the laws of the government of the Territory of Hawaii and applied to such uses and

purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July 7, 1898.

f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than ten acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; or who, or whose husband or wife, or both of them, owns other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law. No person who has so declared his intention and taken or held under any such certificate, lease, or agreement shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking.

g) No public land for which any such certificate, lease, or agreement is issued after May 27, 1910, or any part thereof, or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased, or otherwise transferred to, or acquired or held by or for the benefit of, any alien or corporation; or before or after the issuance of a homestead lease or before the issuance of a patent to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, or holds, or controls, directly or indirectly, other land or the use thereof, the combined area of which and the land in question exceeds eighty acres. The prohibitions of this paragraph shall not apply to transfers or acquisitions by inheritance or between tenants in common.

h) Any land in respect of which any of the foregoing provisions shall be violated shall forthwith be forfeited and resume the status of public land and may be recovered by the Territory or its successors in an action of ejectment or other appropriate proceedings. And noncompliance with the terms of any such

certificate, lease, or agreement, or of the law applicable thereto, shall entitle the commissioner, with the approval of the governor before patent has been issued, with or without legal process, notice, demand, or previous entry, to retake possession and thereby determine the estate: *Provided,* That the times limited for compliance with any such terms may be extended by the commissioner, with such approval upon its appearing that an effort has been made in good faith to comply therewith.

i) The persons entitled to take under any such certificate, lease, or agreement shall be determined by drawing or lot, after public notice as hereinafter provided; and any lot not taken or taken and forfeited, or any lot or part thereof surrendered with the consent of the commissioner, which is hereby authorized, may be disposed of upon application at not less than the advertised price by any such certificate, lease, or agreement without further notice. The notice of any sale, drawing, or allotment of public land shall be by publication for a period of not less than sixty days in one or more newspapers of general circulation published in the Territory.

j) The commissioner, with the approval of the governor, may give to any person (1) who is a citizen of the United States or who has legally declared his intention to become a citizen of the United States and hereafter becomes such, and (2) who has, or whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously for the ten years next preceding the application to purchase, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price to be determined by three disinterested citizens to be appointed by the governor. In the determination of such purchase price the commissioner may, if he deems it just and reasonable, disregard the value of the improvements on such parcel and adjoining land. If such parcel of public lands is reserved for public purposes, either for the use of the United States or the Territory of Hawaii, the commissioner may with the approval of the governor grant to such person a preference right to purchase public lands which are of similar character, value, and area, and which are situated in the same land district. The privilege granted by this paragraph shall not extend to any original lessee or to an assignee of an entire lease of public lands.

k) The commissioner may also, with such approval, issue, for a nominal consideration, to any church or religious organization, or person or persons or corporation representing it, a patent for any parcel of public land occupied continuously for not less than five years heretofore and still occupied by it as a church site under the laws of Hawaii.

l) No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or $5,000 in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands, which is hereby constituted, the members of which are to be appointed by the governor as provided in section 80 of this Act, and until the legislature shall otherwise provide said board shall consist of six members, and its members be appointed for a term of four years: *Provided, however,* That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes lots and tracts, not exceeding three acres in area, and that sales of Government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, side tracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools; and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: *Provided further,* That no exchange of Government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses.

m) Whenever twenty-five or more persons, having the qualifications of homesteaders who have not theretofore made application under this Act shall make written application to the commissioner of public lands for the opening of agricultural lands for settlement in any locality or district, it shall be the duty of said commissioner to proceed expeditiously to survey and open for entry agricultural lands, whether unoccupied or under

lease with the right of withdrawal, sufficient in area to provide homesteads for all such persons, together with all persons of like qualification who shall have filed with such commissioner prior to the survey of such lands written applications for homesteads in the district designated in said applications. The lands to be so opened for settlement by said commissioner shall be either the specific tract or tracts applied for or other suitable and available agricultural lands in the same geographical district and, as far as possible, in the immediate locality of and as nearly equal to that applied for as may be available: *Provided, however,* That no leased land, under cultivation, shall be taken for homesteading until any crops growing thereon shall have been harvested.

n) It shall be the duty of the commissioner to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in the various parts of the Territory for homestead purposes on or before January 1, 1911, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders. In laying out any homestead the commissioner shall include in the homestead lands sufficient to support thereon an ordinary family, but not exceeding eighty acres of agricultural lands and two hundred and fifty acres of first-class pastoral lands or five hundred acres of second-class pastoral lands; or in case of a homestead, including pastoral lands only, not exceeding five hundred acres of first-class pastoral lands or one thousand acres of second-class pastoral lands. All necessary expenses for surveying and opening any such lands for homesteads shall be paid for out of any funds of the Territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.

o) The commissioner, with the approval of the governor, may by contract or agreement authorize any person who has the right of possession, under a general lease from the Territory, of agricultural or pastoral lands included in any homestead, to continue in possession of such lands after the expiration of the lease until such time as the homesteader takes actual possession thereof under any form of homestead agreement. The commissioner

may fix in the contract or agreement such other terms and conditions as he deems advisable.

p) Nothing herein contained shall be construed to prevent said commissioner from surveying and opening for homestead purposes and as a single homestead entry public lands suitable for both agricultural and pastoral purposes, whether such lands be situated in one body or detached tracts, to the end that homesteaders may be provided with both agricultural and pastoral lands wherever there is demand therefor; nor shall the ownership of a residence lot or tract, not exceeding three acres in area, hereafter disqualify any citizen from applying for and receiving any form of homestead entry, including a homestead lease.

q) All lands in the possession, use, and control of the Territory shall hereafter be managed by the commissioner, except such as shall be set aside for public purposes as hereinafter provided; all sales and other dispositions of such land shall be made by the commissioner or under his direction, for which purpose, if necessary, the land may be transferred to his department from any other department by direction of the governor, and all patents and deeds of such land shall issue from the office of the commissioner, who shall countersign the same and keep a record thereof. Lands conveyed to the Territory in exchange for other lands that are subject to the land laws of Hawaii, as amended by this Act, shall, except as otherwise provided, have the same status and be subject to such laws as if they had previously been public lands of Hawaii. All orders setting aside lands for forest or other public purposes, or withdrawing the same, shall be made by the governor, and lands while so set aside for such purposes may be managed as may be provided by the laws of the Territory. The commissioner is hereby authorized to perform any and all acts, prescribe forms of oaths, and, with the approval of the governor and said board, make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this section and the land laws of Hawaii into full force and effect.

Commissioner of Agriculture and Forestry

SEC. 74. That the laws of Hawaii relating to agriculture and forestry, except as changed by this Act, shall continue in force,

subject to modification by Congress or the legislature. In said laws "commissioner of agriculture and forestry" shall be substituted, respectively, for "bureau," "bureau of agriculture and forestry," "commissioner," "commissioners of agriculture," and "commissioners for the island of Oahu."

Superintendent of Public Works

SEC. 75. That there shall be a superintendent of public works, who shall have the powers and duties of the superintendent of public works and those of the powers and duties of the minister of the interior which relate to streets and highways, harbor improvements, wharves, landings, waterworks, railways, electric light and power, telephone lines, fences, pounds, brands, weights and measures, fires and fireproof buildings, explosives, eminent domain, public works, markets, buildings, parks and cemeteries, and other grounds and lands now under the control and management of the minister of the interior, and those of the powers and duties of the minister of finance and collector-general which relate to pilots and harbor masters under the laws of Hawaii, except as changed by this Act and subject to modification by the legislature. In said laws the word "legislature" shall be substituted for "councils" and the words "the circuit court" for "the Hawaiian Postal Savings Bank."

Superintendent of Public Instruction

SEC. 76. That there shall be a superintendent of public instruction, who shall have the powers and perform the duties conferred upon and required of the minister of public instruction by the laws of Hawaii as amended by this Act, and subject to modification by the legislature.

It shall be the duty of the United States Commissioner of Labor to collect, assort, arrange, and present in reports in nineteen hundred and five, and every five years thereafter, statistical details relating to all departments of labor in the Territory of Hawaii, especially in relation to the commercial, industrial, social, educational, and sanitary condition of the laboring classes, and to all such other subjects as Congress may by law direct. The said Commissioner is especially charged to ascertain the highest, lowest, and average number of employees engaged in the various industries in the Territory, to be classified as to nativity, sex,

hours of labor, and conditions of employment, and to report the same to Congress.

Auditor and Deputy Auditor

SEC. 77. That there shall be an auditor and deputy auditor, who shall have the powers and duties conferred upon and required of the auditor-general and deputy auditor-general, respectively, by act thirty-nine of the Session Laws, as amended by this Act, subject to modification by the legislature. In said Act "officer" shall be substituted for "minister" where used without other designation.

Surveyor

SEC. 78. That there shall be a surveyor, who shall have the powers and duties heretofore attached to the surveyor-general, except such as relate to the geodetic survey of the Hawaiian Islands.

High Sheriff

SEC. 79. That there shall be a high sheriff and deputies, who shall have the powers and duties of the marshal and deputies of the Republic of Hawaii under the laws of Hawaii, except as changed by this Act, and subject to modification by the legislature.

Appointment, Removal, Tenure, and Salaries of Officers

SEC. 80. That the President shall nominate and, by and with the advice and consent of the Senate, appoint the chief justice and justices of the supreme court, the judges of the circuit courts, who shall hold their respective offices for the term of four years, unless sooner removed by the President; and the governor shall nominate and, by and with the advice and consent of the senate of the Territory of Hawaii, appoint the attorney-general, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, high sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law; and he may make such appointments when the senate is not in session by granting commissions, which

shall, unless such appointments are confirmed, expire at the end of the next session of the senate. He may, by and with the advice and consent of the senate of the Territory of Hawaii, remove from office any of such officers. All such officers shall hold office for four years and until their successors are appointed and qualified, unless sooner removed, except the commissioners of public instruction and the members of said boards, whose term of office shall be as provided by the laws of the Territory of Hawaii.

The manner of appointment and removal and the tenure of all other officers shall be as provided by law; and the governor may appoint or remove any officer whose appointment or removal is not otherwise provided for.

The salaries of all officers other than those appointed by the President shall be as provided by the legislature, but those of the chief justice and the justices of the supreme court and judges of the circuit courts shall not be diminished during their term of office.

All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment.

All persons holding office in the Hawaiian Islands at the time this Act takes effect shall continue to hold their respective offices until their successors are appointed and qualified, but not beyond the end of the first session of the senate of the Territory of Hawaii unless reappointed as herein provided.

Provided, however, That nothing in this section shall be construed to conflict with the authority and powers conferred by Section fifty-six of this Act as herein amended.

CHAPTER IV

The Judiciary

SEC. 81. That the judicial power of the Territory shall be vested in one supreme court, circuit courts, and in such inferior courts as the legislature may from time to time establish. And until the legislature shall otherwise provide, the laws of Hawaii heretofore in force concerning the several courts and their jurisdiction and procedure shall continue in force except as herein otherwise provided.

Supreme Court

SEC. 82. That the supreme court shall consist of a chief justice and two associate justices, who shall be citizens of the Territory of Hawaii and shall be appointed by the President of the United States, by and with the advice and consent of the Senate of the United States, and may be removed by the President: *Provided, however,* That in case of the disqualification or absence of any justice thereof, in any cause pending before the court, on the trial and determination of said cause his place shall be filled as provided by law.

Laws Continued in Force

SEC. 83. That the laws of Hawaii relative to the judicial department, including civil and criminal procedure, except as amended by this Act, are continued in force, subject to modification by Congress, or the legislature. The provisions of said laws or any laws of the Republic of Hawaii which require juries to be composed of aliens or foreigners only, or to be constituted by impaneling natives of Hawaii only, in civil and criminal cases specified in said laws, are repealed, and all juries shall hereafter be constituted without reference to the race or place of nativity of the jurors; but no person who is not a male citizen of the United States and twenty-one years of age and who cannot understandingly speak, read, and write the English language shall be a qualified juror or grand juror in the Territory of Hawaii. No person shall be convicted in any criminal case except by unanimous verdict of the jury. No plaintiff or defendant in any suit or proceeding in a court of the Territory of Hawaii shall be entitled to a trial by a jury impaneled exclusively from persons of any race. Until otherwise provided by the legislature of the Territory, grand juries may be drawn in the manner provided by the Hawaiian statutes for drawing petty juries, and shall sit at such times as the circuit judges of the respective circuits shall direct; the number of grand jurors in each circuit shall not be less than thirteen, and the method of the presentation of cases to said grand jurors shall be prescribed by the supreme court of the Territory of Hawaii. The several circuit courts may subpoena witnesses to appear before the grand jury in like manner as they subpoena witnesses to appear before their respective courts.

Disqualification by Relationship, Pecuniary Interest, or Previous Judgment

SEC. 84. That no person shall sit as a judge or juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the said judge or juror has, either directly or through such relative, any pecuniary interest; nor shall any person sit as a judge in any case in which he has been of counsel or on an appeal from any decision of judgment rendered by him, and the legislature of the Territory may add other causes of disqualification to those herein enumerated.

CHAPTER V. UNITED STATES OFFICERS

Delegate to Congress

SEC. 85. That a Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the voters qualified to vote for members of the house of representatives of the legislature. Such Delegate shall possess the qualifications necessary for membership of the senate of the legislature of Hawaii.

Such election shall be held on the first Tuesday after the first Monday in November of every even year and at such places as shall be designated by the secretary of the Territory. The ballot for Delegate shall be such as the legislature of Hawaii may designate, and until provision is made by the territorial legislature the ballot shall be of pink paper and shall be of the same general form as those used for the election of representatives to the legislature.

The method of certifying the names of candidates for place on this ballot and all the conduct of the election of a Delegate shall be in conformity to the general election laws of the Territory of Hawaii.

The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly.

Every such Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting. In case of a vacancy occurring in the office of Delegate, the governor of

the Territory is directed to call a special election to fill such vacancy: *Provided, however,* That no vacancy shall be filled which occurs within five months of the expiration of a Congressional term.

The legislature of the Territory of Hawaii shall have the right to alter or amend any part of the election laws of said Territory, including those providing for an election of Delegate to Congress, and its action shall be the law, with full binding force, until altered, amended, or repealed by Congress.

Federal Court

SEC. 86. (*a*) That there shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of $7,500. The said court while in session shall be presided over by only one of said judges. The two judges shall from time to time, either by order or rules of the court, prescribe at what times and in what class of cases each of them shall preside. The said two judges shall have the same powers in all matters coming before said court.

b) The President of the United States, by and with the advice and consent of the Senate of the United States, shall appoint two district judges, a district attorney, and a marshal of the United States for the said district, all of whom shall be citizens of the Territory of Hawaii and shall have resided therein for at least three years next preceding their appointment. Said judges, attorney, and marshal shall hold office for six years unless sooner removed by the President.

c) The said court shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizable in a circuit court of the United States, and shall proceed therein in the same manner as a circuit court; and the said judges, district attorney, and marshal shall have and exercise in the Territory of Hawaii all the powers conferred by the laws of the United States upon the judges, district attorneys, and marshals of district and circuit courts of the United States.

d) Writs of error and appeals from the said district court shall be had and allowed to the circuit court of appeals for the ninth judicial circuit in the same manner as writs of error and appeals are allowed from circuit courts to circuit courts of ap-

peal as provided by law, and appeals and writs of error may be taken to the Supreme Court of the United States from said district court in cases where appeals and writs of error are allowed from the district and circuit courts of the United States to the Supreme Court, and the laws of the United States relating to juries and jury trials shall be applicable to said district court. The laws of the United States relating to appeals, writs of error, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. Regular terms of said court shall be held at Honolulu on the second Monday in April and October, and special terms may be held at such times and places in said district as the said judges may deem expedient. The said district judges shall appoint a clerk of said court at a salary of $4,200 per annum and shall appoint a reporter of said court at a salary of $3,000 per annum. The clerk of the district court with the approval of the judges thereof may appoint two deputy clerks at salaries of $2,500 each per annum.

Internal-Revenue District

SEC. 87. That the Territory of Hawaii shall constitute a district for the collection of the internal revenue of the United States, with a collector, whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary of the Treasury shall direct.

Customs District

SEC. 88. That the Territory of Hawaii shall comprise a customs district of the United States, with ports of entry and delivery at Honolulu, Hilo, Mahukona, and Kahului.

CHAPTER VI. MISCELLANEOUS

Revenues from Wharves

SEC. 89. That until further provision is made by Congress the wharves and landings constructed or controlled by the Republic of Hawaii on any seacoast, bay, roadstead, or harbor shall remain under the control of the government of the Territory of Hawaii, which shall receive and enjoy all revenue derived there-

from, on condition that said property shall be kept in good condition for the use and convenience of commerce, but no tolls or charges shall be made by the government of the Territory of Hawaii for the use of any such property by the United States, or by any vessel of war, tug, revenue cutter, or other boat or transport in the service of the United States.

Sec. 90. That Hawaiian postage stamps, postal cards, and stamped envelopes at the post-offices of the Hawaiian Islands when this Act takes effect shall not be sold, but, together with those that shall thereafter be received at such offices as herein provided, shall be canceled under the direction of the Postmaster-General of the United States; those previously sold and uncanceled shall, if presented at such offices within six months after this Act takes effect, be received at their face value in exchange for postage stamps, postal cards, and stamped envelopes of the United States of the same aggregate face value and, so far as may be, of such denominations as desired.

Sec. 91. That, except as otherwise provided, the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the Governor of Hawaii. And any such public property so taken for the uses and purposes of the United States may be restored to its previous status by direction of the President; and the title to any such public property in the possession and use of the Territory for the purposes of water, sewer, electric, and other public works, penal, charitable, scientific, and educational institutions, cemeteries, hospitals, parks, highways, wharves, landings, harbor improvements, public buildings, or other public purposes, or required for any such purposes, may be transferred to the Territory by direction of the President, and the title to any property so transferred to the Territory may thereafter be transferred to any city, county, or other political subdivision thereof by direction of the governor when thereunto authorized by the legislature.

SEC. 92. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, $10,000; the secretary of the Territory, $5,400; the chief justice of the Supreme Court of the Territory, $7,500; the associate judges of the Supreme Court, $7,000 each; the judges of the circuit courts, $6,000 each; the United States district attorney, $5,000; the United States marshal, $5,000. The governor shall receive annually from the United States, in addition to his salary, (1) the sum of $1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of $3,000, to be paid by the United States.

Imports from Hawaii into the United States

SEC. 93. That imports from any of the Hawaiian Islands, into any State or any other Territory of the United States, of any dutiable articles not the growth, production, or manufacture of said islands, and imported into them from any foreign country after July seventh, eighteen hundred and ninety-eight, and before this Act takes effect, shall pay the same duties that are imposed on the same articles when imported into the United States from any foreign country.

Investigation of Fisheries

SEC. 94. That the Commissioner of Fish and Fisheries of the United States is empowered and required to examine into the entire subject of fisheries and the laws relating to the fishing rights in the Territory of Hawaii, and report to the President touching the same, and to recommend such changes in said laws as he shall see fit.

Repeal of Laws Conferring Exclusive Fishing Rights

SEC. 95. That all laws of the Republic of Hawaii which confer exclusive fishing rights upon any person or persons are hereby repealed, and all fisheries in the sea waters of the Territory of Hawaii not included in any fish pond or artificial inclosure shall be free to all citizens of the United States, subject, however, to vested rights; but no such vested right shall be valid after three years from the taking effect of this Act unless established as hereinafter provided.

Proceedings for Opening Fisheries to Citizens

SEC. 96. That any person who claims a private right to any such fishery shall, within two years after the taking effect of this Act, file his petition in a circuit court of the Territory of Hawaii, setting forth his claim to such fishing right, service of which petition shall be made upon the attorney-general, who shall conduct the case for the Territory, and such case shall be conducted as an ordinary action at law.

That if such fishing right be established the attorney-general of the Territory of Hawaii may proceed, in such manner as may be provided by law for the condemnation of property for public use, to condemn such private right of fishing to the use of the citizens of the United States upon making just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the Territory of Hawaii not otherwise appropriated.

Quarantine

SEC. 97. That quarantine stations shall be established at such places in the Territory of Hawaii as the Supervising Surgeon-General of the Marine Hospital Service of the United States shall direct, and the quarantine regulations for said islands relating to the importation of diseases from other countries shall be under the control of the Government of the United States. The quarantine station and grounds at the harbor of Honolulu, together with all the public property belonging to that service, shall be transferred to the Marine Hospital Service of the United States, and said quarantine grounds shall continue to be so used and employed until the station is changed to other grounds which may be selected by order of the Secretary of the Treasury.

The health laws of the government of Hawaii relating to the harbor of Honolulu and other harbors and inlets from the sea and to the internal control of the health of the islands shall remain in the jurisdiction of the government of the Territory of Hawaii, subject to the quarantine laws and regulations of the United States.

SEC. 98. That all vessels carrying Hawaiian registers on the twelfth day of August, eighteen hundred and ninety-eight, and which were owned bona fide by citizens of the United States, or the citizens of Hawaii, together with the following-named ves-

sels claiming Hawaiian register, Star of France, Euterpe, Star of Russia, Falls of Clyde, and Willscott, shall be entitled to be registered as American vessels, with the benefits and privileges appertaining thereto, and the coasting trade between the islands aforesaid and any other portion of the United States, shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts.

SEC. 99. That the portion of the public domain heretofore known as Crown land is hereby declared to have been, on the twelfth day of August, eighteen hundred and ninety-eight, and prior thereto, the property of the Hawaiian government, and to be free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law.

SEC. 100. That for the purposes of naturalization under the laws of the United States residence in the Hawaiian Islands prior to the taking effect of this Act shall be deemed equivalent to residence in the United States and in the Territory of Hawaii, and the requirement of a previous declaration of intention to become a citizen of the United States and to renounce former allegiance shall not apply to persons who have resided in said islands at least five years prior to the taking effect of this Act; but all other provisions of the laws of the United States relating to naturalization shall, so far as applicable, apply to persons in the said islands.

All records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to the taking effect of the naturalization Act of June twenty-ninth, nineteen hundred and six, in or from any circuit court of the Territory of Hawaii, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this Act further validated or legalized.

SEC. 101. That Chinese in the Hawaiian Islands when this Act takes effect may within one year thereafter obtain certificates of residence as required by "An Act to prohibit the coming of Chinese persons into the United States," approved May fifth,

eighteen hundred and ninety-two, as amended by an Act approved November third, eighteen hundred and ninety-three, entitled "An Act to amend an Act entitled 'An Act to prohibit the coming of Chinese persons into the United States,' approved May fifth, eighteen hundred and ninety-two," and until the expiration of said year shall not be deemed to be unlawfully in the United States if found therein without such certificates: *Provided, however,* That no Chinese laborer, whether he shall hold such certificate or not, shall be allowed to enter any State, Territory, or District of the United States from the Hawaiian Islands.

Sec. 102. That the laws of Hawaii relating to the establishment and conduct of any postal savings bank or institution are hereby abolished. And the Secretary of the Treasury, in the execution of the agreement of the United States as expressed in an Act entitled "Joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall pay the amounts on deposit in the Hawaiian Postal Savings Bank to the persons entitled thereto, according to their respective rights, and he shall make all needful orders, rules, and regulations for paying such persons and for notifying such persons to present their demands for payment. So much money as is necessary to pay said demands is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be available on and after the first day of July, nineteen hundred, when such payments shall begin, and none of said demands shall bear interest after said date, and no deposit shall be made in said bank after said date. Said demands of such persons shall be certified to by the chief executive of Hawaii as being genuine and due to the persons presenting the same, and his certificate shall be sealed with the official seal of the Territory, and countersigned by its secretary, and shall be approved by the Secretary of the Interior, who shall draw his warrant for the amount due upon the Treasurer of the United States, and when the same are paid no further liabilities shall exist in respect of the same against the governments of the United States or of Hawaii.

Sec. 103. That any money of the Hawaiian Postal Savings Bank that shall remain unpaid to the persons entitled thereto on the first day of July, nineteen hundred and one, and any assets

of said bank shall be turned over by the government of Hawaii to the Treasurer of the United States, and the Secretary of the Treasury shall cause an account to be stated, as of said date, between such government of Hawaii and the United States in respect to said Hawaiian Postal Savings Bank.

SEC. 104. This Act shall take effect forty-five days from and after the date of the approval thereof, excepting only as to section fifty-two, relating to appropriations, which shall take effect upon such approval.

SEC. 105. That no person shall be employed as a mechanic or laborer upon any public work carried on in the Territory of Hawaii by the Government of the United States, whether the work is done by contract or otherwise, unless such person is a citizen of the United States or eligible to become such a citizen.

SEC. 106. The board of harbor commissioners of the Territory of Hawaii shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the Territory of Hawaii relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and water-front improvements, ports, docks, wharves, quays, bulkheads, and landings belonging to or controlled by the Territory, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the Territory for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor, and, subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the Territory, rates or charges for the services of pilots, wharfage, or demurrage, rents or charges for warehouses or warehouse space, for office or office space, for storage of freight, goods, wares, and merchandise, for storage space for the use of donkey engines, derricks, or other equipment belonging to the Territory, under the control of the board, and to make other charges, including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The board shall likewise have power to appoint and remove clerks, wharfingers

and their assistants, pilots and pilot-boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules and regulations pursuant to this section and not inconsistent with law; and generally shall have all powers necessary fully to carry out the provisions of this section.

All moneys appropriated for harbor improvements, including new construction, reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision and control of the board, subject to the provisions of law. All contracts and agreements authorized by law to be entered into by the board shall be executed on its behalf by its chairman.

The board shall prepare and submit annually to the governor a report of its official acts during the preceding year, together with its recommendations as to harbor improvements throughout the Territory.

Sec. 107. That this Act may be cited as the "Hawaiian Organic Act."

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